



## Service Level Agreement MSx Datacenters

This MSx Datacenters Service Level Agreement (“SLA”) is incorporated into the Master Service Agreement (“MSA”) executed by TPx Communications and Customer and sets forth the specific terms and conditions under which TPx shall supply colocation services. The general terms applicable to such services are contained in the MSA and the related MSx Datacenters License Addendum.

**Power** - TPx shall provide Customer with the power configuration at the designated TPx Facility as set forth in the MSx Datacenters Application and Approval Agreement (“Datacenter Agreement”). With respect to one hundred and twenty (120) Volt power, TPx will provide the power feed(s) with a minimum of a 6 outlet power strip. If Customer requires a power strip for two hundred and eight/two hundred and twenty (208/220) Volt power feed(s), Customer is responsible for providing the necessary rack-mounted power strip. Customer is responsible to ensure that the total of the manufacturer's rated amperage for all equipment on any single Customer circuit does not exceed the amperage size of that circuit.

TPx reserves the right to audit power consumption of any Customer. If during such audit, TPx determines (i) that a Customer is using redundant power in a non –redundant fashion; or (ii) Customer is drawing more power than specified in the Datacenter Agreement, then TPx shall notify Customer in writing and Customer shall have ten (10) business days to either balance or reduce its power loads respectively, or request an upgrade from TPx to provide additional capacity.

Guarantee - TPx guarantees 99.9% power availability in the follow TPx Facilities that have Uninterrupted Power System (UPS):

Manchester, NH  
Santa Ana, CA  
Sacramento, CA  
Dallas/Harwood, TX  
Dallas/Akard

Definition – “Power Availability” is defined as provision of uninterrupted power to the designated TPx Facility infrastructure and to the equipment located within the designated TPx Facility based upon the capacity specified in the Datacenter Agreement.

Remedy - If power is unavailable as a result of TPx's actions or inactions, such that Customer's Service is interrupted, then Customer is entitled to a credit of 1/30<sup>th</sup> Monthly Recurring Charge (“MRC”) for the Power component for each incident. If Customer exceeds eight (8) or more cumulative full hours of unavailability during a calendar month, Customer shall be issued a total credit of one (1) MRC for Power for the calendar month in which TPx failed to meet the power availability guarantee.

**Network Services** - Network services include those network services and internet access services set forth in the Datacenter Agreement and shall be made available to Customer on an exclusive, 24 -hour, 7 -day per week basis (excluding downtime attributable to previously scheduled routine and preventative maintenance).

Guarantee - TPx guarantees that during any calendar month, its internet protocol network utilized to access the internet from the designated TPx facility will have availability of 99.99% for Customer to transmit to, and receive information from, the internet. This is achieved through both hardware and carrier redundancy. Specifics on these can be provided to Customer on a site to site basis.

Definition - "Internet availability" is defined as the ability to route a data packet from Customer's environment located within a cabinet or suite in the space to the egress point to the public Internet.

Remedy - If TPx fails to provide internet access in accordance with the guarantee, then Customer is entitled to a credit of 1/30<sup>th</sup> MRC for the services on the applicable Service Agreement: if Customer exceeds eight (8) or more cumulative full hours of unavailability during a calendar month, Customer shall be issued a total credit of one (1) MRC under the applicable Service Agreement for the calendar month in which TPx failed to meet the internet access availability guarantee.

**Dedicated transport services.** TPx shall provision third party telecommunications circuits for Customer. Dedicated transport services include provisioning and installation of dedicated TPx or third party circuit(s) and port connections from TPx's network distribution center to the equipment situated in the space.

**Cross Connect Services.** TPx shall provide technical support to assist Customer with the provisioning and installation of third party telecommunication circuits procured by Customer. Cross connect services include: (i) assistance with provisioning third party circuits procured by Customer; and (ii) port connections from TPx's network distribution center to the equipment situated in the space.

TPx warrants that the connectors, copper, and fiber it uses for cross-connects will be effective media for interconnection, and that the path created by those connectors, copper, or fiber will be available; provided that Customer does not introduce any active components in the path of the cross-connects. If the path, connectors, or other passive physical media fail for cross-connects due to circumstances caused solely by TPx, TPx shall credit Customer's account one (1) MRC attributable to that cross-connect for the month during which such failure occurs; provided that Customer shall allow TPx to test all cross-connects for which Customer reports failure. Unavailability of a cross-connect during such testing shall not be considered failure hereunder.

Customer may receive a maximum of one month's credit per cross-connect that experiences failure in any calendar month. In the event that TPx performs testing pursuant to this section because Customer has reported failure, and such testing reveals that there is no failure, Customer shall be charged for such testing at the then-current remote hands hourly rate, except that Customer shall be entitled to one instance of testing that reveals no failure free of charge per calendar month.

**Remote Hands.** TPx will provide Customer with access to technical personnel to assist Customer on a 24x7x365 basis for one (1) hour per month. Additional hours can be purchased and added to the Service Agreement. In the event that Customer exceeds the number of hours indicated in the Service Agreement in any month, Customer may then elect to have TPx attempt to resolve the problem on a time and materials basis at TPx's then prevailing hourly rate. Operational support services shall include: (i) the execution of a command or series of commands as directed by Customer to determine operating status or to facilitate configuration changes; (ii) visual inspection of equipment and power up, restart or reboot as directed by Customer; (iii) insertion and ejection of media as directed by Customer; and (iv) preparation of media for pickup at the designated TPx facility as requested by Customer. Customer is responsible for providing all media, related materials, storage containers, procedures and any off-site storage contract for the media.

TPx will use commercially reasonable efforts to ensure that each Customer receives the best support available 24 hours a day, 7 days per week. TPx commits that all Remote Hands support tickets are acknowledged within thirty (30) minutes and response times do not exceed the allotted time frame 100% of the time. The response time is measured from the time TPx registers the support ticket until a TPx technician contacts Customer to begin troubleshooting.

In the event of a delayed response during any month of contract term, TPx will provide a service level credit for 100% of the billable amount for the work being performed with respect to such support ticket. The submitted support ticket must provide adequate instructions for TPx regarding the problem in order to receive service level credit.

Customer shall abide by any posted rules relating to the use of, access to, or security measures respecting the space. Customer shall not make any material alterations to the space without the prior written consent of TPx. In the event that unauthorized parties gain access to the space through access cards, keys or other access devices provided to Customer, Customer shall be responsible for any damages incurred as a result thereof. Customer shall be responsible for the cost of replacing any access devices lost or stolen after delivery thereof to Customer.

#### **Heating, Ventilation and Air Conditioning ("HVAC")**

**Temperature** - If the Temperature drops below 55 degrees or exceeds 80 degrees Fahrenheit for more than fifteen (15) consecutive minutes two times during a calendar month, TPx shall credit Customer's account one (1) MRC of the colocation service specified in the applicable Service Agreement.

**Humidity** - If the humidity inside any of Customer's space drops below 20 percent or exceeds 65 percent for more than 15 consecutive minutes two times during a calendar month, TPx shall credit Customer's account one (1) MRC of the colocation service specified in the applicable Service Agreement.

Customer equipment must be properly orientated to cold/hot aisles and otherwise comply with facility installation guidelines to be eligible for service level credits related to this SLA objective.

**Physical security** – TPx will use commercially reasonable efforts to ensure that access to the Customer space will be monitored and restricted at all times. In the event of any unauthorized access to such Customer space at any time during any month of contract term, TPx will provide a service level credit of 50% of the MRC specified in the applicable service during any month of contract term.

Customer Space must be properly secured by Customer in order to receive service level credit in this SLA objective. TPx provides its customers with 4 access badges that enable them to have 24x7x365 access to their collocated equipment. TPx's facilities department manages the access badge distribution and activation. It is the customer's responsibility to complete all necessary paperwork to obtain the required number of badges in addition to notifying TPx when one is lost or needs to be deactivated. If more than 4 badges are necessary, additional costs will apply. All of Customer's designees shall adhere to TPx's policies.

In the event a Customer is delayed in getting access to the collocation they have authorized access to during any month of contract term because of a failure of TPx to provide access, TPx will provide a service level credit for the number of hours rounded up to the nearest whole hour for which the Customer was denied access. The hourly rate of \$200.00 shall be used to determine the credit.

**Notifications** - TPx will use reasonable efforts to ensure each Customer is proactively notified of major changes and service affecting scheduled maintenance. Critical maintenance notifications will be best effort. TPx will minimize the maintenance or repair window on an ongoing basis in order to deliver leading, continuous colocation services to Customer.

In the event of a service affecting event such as fire, flood, earthquake etc, TPx will attempt to notify Customer of the event and the impact it has on the service. TPx will also enact its Datacenter Operations Business Continuity Plan which Customer may request to review. This plan is used as a guide for the processes and procedures to follow a crisis or emergency. Datacenter personnel are to prioritize restoration efforts in the following order:

1. Life Safety
2. Incident Stabilization
3. Property Preservation

TPx will maintain **SSAE18 compliance**. TPx SOC audits are performed annually for the following locations: Sacramento, San Jose, Santa Ana, Las Vegas, Harwood/Dallas, Manchester NH and Akard/Dallas. Customer may request a copy of the compliance reports. Once a non-disclosure agreement is in place, Customer will be sent the report within 2 business days.

TPx facilities will be properly insured.

The maximum credit to which Customer shall be entitled in a calendar month shall not exceed the monthly recurring charges attributable to that space.

In addition, TPx's service level commitments stated herein shall not apply if TPx's failure to meet them (i) results from any actions or inactions of Customer or its representatives; or (ii) results from Customer's equipment.

Customer is eligible to receive credits under the SLA only if Customer is in good standing with TPx and is not delinquent in payment or in violation of the Acceptable Use Policy.