



Failover Services Addendum

This Addendum amends and modifies the Telecommunications Account Agreement between TPx Communications and Customer.

1. This Addendum, the Agreement, and Service Agreement between Customer (also referred to in this Addendum as “you” and “your”) and TPx govern your use of TPx’s Failover Services (“Service”). TPx hereby agrees to provide Service to Customer for the Term specified on the Service Agreement under the Terms and Conditions applicable to the Agreement as modified by this Addendum as follows:

2. Can TPx Change This Agreement or Your Service?

We may change prices or any other term of your Service or this agreement at any time, but we will provide notice first. If you use your Service after the change takes effect, that means you are accepting the change. If a change to this Addendum has a material adverse effect on you, you can cancel the line of Service that has been affected within sixty (60) days of receiving the notice with no early termination fee.

3. Wireless Failover Device

Your wireless device must comply with Federal Communications Commission regulations, be certified for use on our network, and be compatible with your Service. Please be aware that we may change your wireless device’s software or programming remotely via the wireless network, without notice. Please note that your wireless device may not work with another wireless network, or the other wireless carrier may not accept your wireless device on its network. The wireless device is TPx’s property for your use during the Service term. You must safeguard the installed device and must not remove from the original set up location. **Changing the device’s physical location may cause the Service not to function properly.** You must not replace the wireless device with any other device serviced by another carrier and/or TPx. Switching the device will cause Service malfunction and TPx shall not be liable for any damages resulting from you either changing the device or moving the device to a different physical location.

Wireless devices use radio transmissions, so unfortunately you cannot get Service if your device is not in range of a transmission signal. Please be aware that even within your Coverage Area, many things can affect the availability and quality of your Service, including network capacity, your device, terrain, buildings, foliage and weather. If automatic failover occurs and your Service experiences these unpredictable conditions and causes Service degradation and/or restriction, TPx shall not be liable for any resulting damages.

If your wireless device gets lost, stolen or damages, it is important that you notify us right away, so we can suspend your Service to keep someone else from using it. If your wireless device is used after the loss or theft but before you report it, and you want a credit for any charges for that usage, we’re happy to review your account activity and any other information you’d like us to consider. Keep in mind that you may be held responsible for the charges if you delayed reporting the loss or theft without good reason, but you don’t have to pay any charges you dispute while they are being investigated. If we have not given you a courtesy suspension of recurring monthly charges during the past year, we’ll give you one for thirty (30) days or until you replace or recover your wireless device, whichever comes first.

If the wireless device is damaged, lost or stolen during the Service term, you must report to TPx promptly. There will be device replacement cost and installation fee chargeable to your account to re-establish Service.

4. Where and How Does TPx Service Work?

Service provides data network diversity in emergency situations which allows customers to send essential traffic through the back up path. The Service is configured to failover automatically when the primary circuit is down. The wireless network is subject to RF signal propagation, environmental conditions, and shared network capacity.

5. Customer Responsibilities.

To ensure that Service operates properly, you must:

a. contact TPx immediately at www.onecentralportal.tpx.com once you are aware that your primary transport is not working.



- b. manage the data traffic when you are in failover mode as there may be differences between operating in normal mode compared to failover mode.
- c. never use failover circuits for normal traffic; failover circuits should be dedicated to use in failover mode only.
- d. if you use failover transport that is not provided by TPx, you must work with your third party vendor if the failover transport become unavailable.

6. What Are TPx's Rights to Limit or End Service or End this Agreement?

We can, without notice, limit, suspend **or end** your Service or any agreement with you for any good cause, including, but not limited to: (1) if you: (a) breach this agreement; (b) resell your Service; (c) use your Service for any illegal purpose, including use that violates trade and economic sanctions and prohibitions promulgated by any U.S. governmental agency; (d) install, deploy or use any regeneration equipment or similar mechanism (for example, a repeater) to originate, amplify, enhance, retransmit or regenerate an RF signal without our permission; (e) steal from or lie to us; (f) pay late more than once in any 12 months; (g) incur charges larger than a required deposit or billing limit, or materially in excess of your monthly access charges (even if we haven't yet billed the charges); (h) provide credit information we can't verify; or (i) are unable to pay us or go bankrupt; or (2) if you, any user of your device or any account manager on your account: (a) threaten, harass, or use vulgar and/or inappropriate language toward our representatives; (b) interfere with our operations; (c) "spam," or engage in other abusive messaging or calling; (d) modify your device from its manufacturer's specifications; or (e) use your Service in a way that negatively affects our network or other customers. We can also temporarily limit your Service for any operational or governmental reason.

7. Information/Content/Applications. Certain information, applications, or other content is provided by independently owned and operated content providers or service providers who are subject to change at any time without notice. TPX IS NOT A PUBLISHER OF THIRD-PARTY INFORMATION, APPLICATIONS, OR OTHER CONTENT AND IS NOT RESPONSIBLE FOR ANY OPINIONS, ADVICE, STATEMENTS, OR OTHER INFORMATION, SERVICES OR GOODS PROVIDED BY THIRD PARTIES. Third-party content or service providers may impose additional charges. Policies regarding intellectual property, privacy and other policies or terms of use may differ among TPx's content or service providers and you are bound by such policies or terms when you visit their respective sites or use their services. It is your responsibility to read the rules or service agreements of each content provider or service provider. Any information you involuntarily or voluntarily provide third parties is governed by their policies or terms. The accuracy, appropriateness, content, completeness, timeliness, usefulness, security, safety, merchantability, fitness for a particular purpose, transmission or correct sequencing of any application, information or downloaded data is not guaranteed or warranted by TPx or any content providers or other third party. Delays or omissions may occur. Neither TPx nor its content providers, service providers or other third parties shall be liable to you for any loss or injury arising out of or caused, in whole or in part, by your use of any information, application or content, or any information, application, or other content acquired through the Service. You acknowledge that every business or personal decision, to some degree or another, represents an assumption of risk, and that neither TPx nor its content and service providers or suppliers, in providing information, applications or other content or services, or access to information, applications, or other content underwrites, can underwrite, or assumes your risk in any manner whatsoever.

8. Prohibited and Permissible Uses

Except as may otherwise be specifically permitted or prohibited for select data plans, data sessions may typically be conducted for the following purposes: (i) Internet browsing; (ii) email; and (iii) intranet access (including access to corporate intranets, email, and individual productivity applications like customer relationship management, sales force, and field service automation). **While most common uses for Intranet browsing, email and intranet access are permitted by your data plan, there are certain uses that cause extreme network capacity issues and interference with the network and are therefore prohibited. Examples of prohibited uses include, without limitation, the following: (i) server devices or host computer applications, including, but not limited to, Web camera posts or broadcasts, automatic data feeds, automated machine-to-machine connections or peer-to-peer (P2P) file sharing; (ii) as a substitute or backup for private lines, landlines or full-time or dedicated data connections; (iii) "auto-responders," "cancel-bots," or similar automated or manual routines**



which generate excessive amounts of net traffic, or which disrupt net user groups or email use by others; (iv) "spam" or unsolicited commercial or bulk email (or activities that have the effect of facilitating unsolicited commercial email or unsolicited bulk email); (v) any activity that adversely affects the ability of other people or systems to use either TPx's Mobile Services or other parties' Internet-based resources, including "denial of service" (DoS) attacks against another network host or individual user; (vi) accessing, or attempting to access without authority, the accounts of others, or to penetrate, or attempt to penetrate, security measures of TPx's wireless network or another entity's network or systems; (vii) software or other devices that maintain continuous active Internet connections when a computer's connection would otherwise be idle or any "keep alive" functions,

9. Security: TPX DOES NOT GUARANTEE SECURITY. Data encryption is available with some, but not all, Services sold by TPx. If you use your device to access company email or information, it is your responsibility to ensure your use complies with your company's internal IT and security procedures.

10. Disclaimer of Warranties

In addition to the Warranty Disclaimer in Section 5(a) in the Terms and Conditions of the Agreement, we make no representations or warranties, express or implied, including, to the extent permitted by applicable law, any implied warranty of merchantability or fitness for a particular purpose, about your Service, your wireless device, or any applications you access through your wireless device. We do not warrant that your wireless device will work perfectly or will not need occasional upgrades or modifications, or that it will not be negatively affected by network-related modifications, upgrades or similar activity. In addition to You also agree we aren't liable for missed or deleted voice mails or other messages, or for any information (like pictures) that gets lost or deleted if we work on your device

11. What Happens if Your Service Is Canceled Before the End of Your Contract Term?

Your Service renewals and terminations are subject to Section 4 in the Terms and Conditions of the Agreement.

12. Acceptance of This Addendum.

By accepting this Addendum, you agree to receive and pay for the Service provided by TPx, including any subsequent service orders under the terms and conditions of this Addendum. If you do accept, you can cancel this Addendum within thirty (30) days of acceptance without having to pay an early termination fee as long as you return any equipment you purchased from TPx at the time you accepted.

If you order additional Service, you agree to accept the terms and conditions of this Addendum for each such Service ordered by any one of the following: (a) opening a package that states that you are accepting by opening it; or (b) activating your Service; or (c) using your wireless device.