

**New Hampshire Insurance Company**

**Administrative Office: 70 Pine Street**

**New York, NY 10270**

**(212) 770-7000**

**CERTIFICATE  
DECLARATIONS**

This Certificate is attached to and made a part of a Master Policy #11050971. The Named Insured shown below has coverage under this Master Policy.

**Item 1. NAMED INSURED:**

Subscribers on file with the Communications Equipment Service Provider shown in **Item 4.** who have active service with such Communications Equipment Service Provider.

Named Insured mailing address: On file with Communications Equipment Service Provider

**Item 2. When Coverage under Certificate is Effective**

Coverage under this Certificate is effective as shown in the Coverage Effective Date Endorsement attached to these Declarations.

**Item 3. Coverage Period**

Subject to Item 2. above, coverage under this Certificate is provided on a one (1) month prepaid basis.

**Item 4. Premium for Coverage Provided under this Certificate: \$ 3.99, \$4.99 or \$6.99**

**Item 5. Communications Equipment Service Provider**

Name : **New-Cell, Inc dba Cellcom**  
Address: **P.O. Box 5517**  
**Green Bay, WI 54313**

**Item 6. Authorized Representative:**

Name: **eSecuritel Agency, LLC / Brightstar Agency, LLC**  
Address: **P.O. Box 03**  
**Alpharetta, GA 30009**

**Item 7. Limits of Insurance**

Occurrence Limit of Insurance **\$1,000.00** per Occurrence for each Named Insured

Aggregate Limit of Insurance **\$2,000.00** per Named Insured or **two (2)** occurrences within a **twelve (12) month** period of time, whichever comes first

**Item 8. Deductible**

The deductible will be the amount corresponding to the retail price range of the Named Insured's wireless device when initially purchased.

<b>Retail Price Range</b>	<b>Deductible</b>
<b>\$0.00 - \$224.99</b>	<b>\$50.00</b>
<b>\$225.00 - \$544.99</b>	<b>\$100.00</b>
<b>\$545.00 - \$1,000</b>	<b>\$175.00</b>

**Item 9. Accessories**

- A. Accessories Included
  - 1. **Battery**
  - 2. **Standard Wall Charger**
- B. Maximum retail value of Accessories  
**\$200.00**

**Item 10. Replacement Device**

Maximum full retail value of replacement to be charged  
**\$1,000.00**

**Item 11. This Certificate consists of the following forms:**

- 1. Certificate Declarations Form #101136 (0911)
- 2. Certificate Conditions Form #101131 (0911)
- 3. Communications Equipment Coverage Form #101124 (0911)
- 4. Coverage Effective Form #101127 (0309)
- 5. Amendatory Endorsements

Specimen copies of the Forms referenced above are attached to this Certificate, or if not attached, are available at the following website, [www.esecuritel.com/cellcom](http://www.esecuritel.com/cellcom) or may be obtained by calling this toll free number, 888-406-2446.

By signing below, the President and the Secretary of the Insurer agree on behalf of the Insurer to all the terms of this Policy.

This coverage is being provided by New Hampshire Insurance Company.

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
SECRETARY

  
\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

# COMMUNICATIONS EQUIPMENT CERTIFICATE CONDITIONS

The Coverage Part under which Coverage is provided to you as noted in the Certificate Declarations is subject to the following conditions:

## A. CANCELLATION AND MATERIAL CHANGES

1. You may cancel your coverage under this Coverage Part by mailing or delivering to us advance written notice stating when such cancellation is effective. You may send your written notice through the Communications Equipment Service Provider shown in the Declarations (hereinafter the "Communications Equipment Service Provider")
2. We may cancel your coverage under this Coverage Part by mailing or delivering to you written notice of cancellation, and by delivering notice electronically to you at least:
  - a. Ten (10) days before the effective date of cancellation if we cancel for nonpayment of premium; or
  - b. Sixty (60) days before the effective date of cancellation if we cancel for any other reason;
3. Our notice will be mailed or delivered to you at the last mailing address known to us.
4. Notice of cancellation or non-renewal will state the effective date of cancellation and all insurance for you under this Coverage Part will end on that date.
5. If this Coverage Part is cancelled, you will be refunded any unearned premium due in accordance with applicable law.
6. If cancellation notice is mailed, proof of mailing will be sufficient proof of notice.
7. The insurance under this Coverage Part is provided to you for the Coverage Period shown in the Declarations unless you cease to be a valid, active and current subscriber of your Communications Equipment Service Provider.
8. In the event of any material change in the coverage terms, premium or the deductible, you will be provided sixty (60) days advance written notice of such changes. You may cancel coverage at any time without penalty, but if you continue to pay premiums after a change in monthly premiums, coverage terms or the deductible, you will be bound by those changes.

## B. DUTIES IN THE EVENT OF LOSS

You must see that the following are done in the event of loss or damage to Covered Property:

1. In the event that your Covered Property is lost or stolen, notify the Communications Equipment Service Provider as soon as possible to suspend service.
2. If a claim involves a violation of law or any loss of possession, promptly notify the law enforcement agency with jurisdiction and obtain confirmation of this notification.
3. Report the loss or damage promptly to us not later than sixty (60) days from the date of loss or damage. If the loss or damage is not reported within sixty (60) days, your claim will be forfeited. All claims must be submitted through our Authorized Representative shown in the Declarations (hereinafter our "Authorized Representative") for our approval prior to the delivery of replacement equipment. Any claims that are not submitted through

our Authorized Representative for our approval will not be honored and fulfilled.

4. Take all reasonable steps to protect the Covered Property from further damage. Also, if feasible, set the damaged property aside and in the best possible order for examination.
5. Provide us with a detailed proof of loss statement, a police report case number, and/or a copy of the police report filed for theft, attempted theft, vandalism or lost equipment within sixty (60) days of the date the loss or damage is reported prior to receiving replacement equipment.
6. Proof of loss requirements are satisfied once all requested information has been received as outlined in these Conditions. All Covered Property that has been replaced is considered the property of the Authorized Representative.
7. If the Covered Property is damaged, the Covered Property must be retained by you until your claim is completed, and you may be required to return the Covered Property to us at our expense. If lost or stolen Covered Property is recovered, it must be returned to the "Authorized Service Facility" at our expense. The Covered Property should not remain activated nor be reactivated except with prior consent from us. If Covered Property is not returned to us within sixty (60) days of receipt of the replacement equipment, a salvage non-return fee may be billed to you. The salvage non-return fee will not exceed the value of the Covered Property that was not returned.
8. As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.
9. Cooperate with us in the investigation or settlement of the claim.
10. Provide a copy of the original bill of sale.
11. We may examine you under oath, at such times as may be reasonably required, about any matter relating to this insurance or the claim, including your books and records. In the event of an examination, your answers must be signed.
12. Provide us with all of the necessary information required to approve replacement of the Covered Property within sixty (60) days of the date that you report the loss or damage to us. Failure on your part to take delivery of replacement equipment within sixty (60) days of claim approval by us will result in forfeiture of your claim.

### **C. LOSS SETTLEMENT**

1. In the event of loss or damage to Covered Property, we will arrange for the replacement of the lost, stolen or damaged Covered Property through the "Authorized Service Facility".
2. You will not be entitled to receive cash in lieu of actual replacement equipment. In no event will you be reimbursed for any out-of-pocket expenses.
3. Replacement equipment may be refurbished equipment or equipment of like kind and quality subject to the following:
  - a. If your original make and model of equipment is no longer carried by your Communications Equipment Service Provider and is not available from its approved

inventory in the "Authorized Service Facility" at the time of approval of your replacement request, you will receive comparable equipment.

- b. Equipment failure evaluations performed by the Communications Equipment Service Provider and/or our Authorized Representative and/or the manufacturer may be required prior to approval of your request for replacement of the Covered Property.
- 4. All claims for covered loss or damage under this Coverage Part will be made good within thirty (30) days after presentation and acceptance of satisfactory proof of interest and loss or damage to our Authorized Representative and satisfaction by you of your Duties in the Event of a Loss. No claim shall be honored or made good if you have collected for the direct physical loss or damage from others. We will ship approved replacement equipment directly to you within the United States or you may be required to pick up your replacement at an "Authorized Service Facility". You must be available to take delivery of the replacement equipment or pay the added cost of replacement equipment re-delivery.
  - 5. Any recovery or salvage on a loss will accrue, entirely to our benefit, until the cost of the claim incurred by us has been made up. You must return to us any damaged and malfunctioning equipment as well as any recovered lost or stolen equipment.
  - 6. If any Accessories are shown on the Declarations page, we will cover the cost associated with the repair or replacement of such Accessories up to a maximum retail value of Accessories shown in the Declarations. Any amount in excess of that maximum will be funded by you.

#### **D. ADDITIONAL CONDITIONS**

##### **1. Transfer Of Rights Of Recovery Against Others to Us**

If any person or organization to or for whom we honor a claim under this Coverage Part has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.
- b. After a covered loss to your Covered Property only if, at time of loss that party is one of the following:
  - (1) someone covered under this Coverage Part;
  - (2) a business firm:
    - (a) Owned or controlled by you;
    - (b) That owns or controls you; or
    - (c) Your tenant.

This will not restrict your insurance.

##### **2. Concealment, Misrepresentation or Fraud**

This coverage is void in any case of fraud, intentional concealment or misrepresentation of a material fact, at any time, concerning:

- a. This coverage;
- b. The Covered Property;

- c. Your interest in the Covered Property; or
- d. A claim under this Coverage Part.

If, when inspected by the "Authorized Service Facility", the make/model and condition of the Covered Property does not match that as attested to in the Proof of Loss statement, or is not damaged, the Authorized Representative reserves the right to charge you the full retail value of the replacement device issued (up to a maximum amount shown in **Item 8.** of the Declarations).

### **3. Legal Action Against Us**

No one may bring legal action against us under this Coverage Part unless:

- a. There has been full compliance with all terms of this Coverage Part; and
- b. The action is brought within two (2) years after you first have knowledge of the loss or damage.

### **4. No Benefit to Bailee**

No person or organization, other than you, having custody of Covered Property, will benefit from this insurance.

### **5. Coverage Territory**

The coverage territory is worldwide but the cost of replacement will be valued in U.S. currency at the time of replacement.

### **6. Transfer of Rights and Duties Under this Policy**

Your rights and duties under this policy may not be transferred without our written consent.

### **7. Applicable Law**

We agree that any terms of the Coverage Part not in conformity with applicable law are conformed to comply with such law. If any portion of the Coverage Part is deemed invalid or unenforceable, it shall not invalidate the remaining portions of this Coverage Part.

### **8. Changes**

The Coverage Part contains all the agreements between you and us concerning the insurance afforded. The Coverage Part's terms can be amended or waived only by endorsement issued by us and made a part of the Coverage Part.

### **9. Premiums**

The Named Insured shown on the Declarations:

- a. Is responsible for the payment of all premiums; and
- b. Will be the payee for any return premiums we pay.

The premium shown in the Declarations will be payable in advance and will be charged to the Named Insured's regular account with the Communications Equipment Service Provider for transmittal to us. The Named Insured has 15 days after receiving the

Certificate to determine if they want to keep the coverage without any premium being earned.

**10. Appraisal**

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

# COMMUNICATIONS EQUIPMENT COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout the policy, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotations have special meaning. Refer to Section **E. DEFINITIONS**.

## **A. Coverage**

We will cover direct physical loss or damage to Covered Property from any of the Covered Causes of Loss.

1. Covered Property, as used in this Coverage Form, means the wireless device owned by you and for which the unique identification number (International Mobile Equipment Identity (IMEI), Electronic Serial Number (ESN), or Mobile Equipment ID (MEID)) is on record with us at the time of loss, and any Accessories shown in the Declarations, but only if such Accessories are lost or damaged with such wireless device

### **2. Property Not Covered**

- a. Contraband or property in the course of illegal transportation or trade.
- b. Any antenna or wiring that is attached to, or protrudes from, or is on the exterior of any vehicle or watercraft.
- c. Property in transit to you from a manufacturer or seller that is not the "Authorized Service Facility".
- d. Color face plates, personalized data, or customized or downloaded software, such as personal information managers (PIM's), ring tones, games, or screen savers.
- e. Removable data storage devices.

### **3. Covered Causes of Loss**

Covered Causes of Loss means risks of direct physical loss or damage to Covered Property except loss or damage recoverable under the manufacturer's warranty and those causes of loss listed in the Exclusions.

## **B. Exclusions**

1. We will not cover loss or damage caused directly or indirectly by any of the following. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

### **a. Governmental Action,**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread if the fire would be covered under this Coverage Form.

### **b. Nuclear Hazard**

(1) Any weapon employing atomic fission or fusion; or



- (2) Nuclear reaction or radiation, or radioactive contamination from any other cause. But if nuclear reaction or radiation, or radioactive contamination results in fire, we will pay for the direct loss or damage caused by that fire if the fire would be covered under this Coverage Form.

**c. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

Exclusions **B.1.a.** through **B.1.c.** apply whether or not the loss event results in widespread damage or affects a substantial area.

**2.** We will not cover loss or damage caused by or resulting from any of the following:

- a. Delay, loss of use, loss of market or any other consequential loss, interruption of business or inconvenience; an increase of loss or damage caused by or resulting from the delay in replacing Covered Property due to interference at the location of replacement by strikers, other persons or any other Cause of Loss.
- b. Rodents, insects, vermin, or other wild animals.
- c. "Intentional parting" with any property by you or anyone entrusted with the property whether or not induced to do so by any fraudulent scheme, trick, device or false pretense.
- d. Obsolescence, including technological obsolescence of the Covered Property.
- e. Dishonest or criminal act committed by:
  - (1) You, or any of your authorized representatives;
  - (2) Anyone else with an interest in the property or their authorized representatives; or
  - (3) Anyone else to whom the property is entrusted for any purpose.

This exclusion applies whether or not such persons are acting alone or in collusion with other persons.

- f. Change or enhancement in color, texture, finish, expansion, contraction, or any cosmetic damage of Covered Property however caused, including, but not limited to, scratches, marring, and cracked displays that occur to Covered Property that does not affect the mechanical or electrical function of the Covered Property.
- g. Faulty repair, adjusting, installation, servicing, or maintenance unless fire or explosion ensues and then only for loss or damage by ensuing fire or explosion.
- h. The presence, discharge, dispersal, seepage, migration, release or escape of "Pollutants."
- i. Unauthorized repair or replacement.
- j. Preventative maintenance or preferential adjustments.
- k. Use of the Covered Property in a manner for which it was not designed or intended by the manufacturer, or failure to follow the manufacturer's installation, operation or maintenance instructions. Any damage that is the result of abuse or of any intentional act.
- l. Error or omission in design, programming, system configuration, faulty construction, or any original defect in any Covered Property or recall by the manufacturer.
- m. Loss or damage to batteries (unless batteries are listed as an Accessory on the Declarations page), personalized data, or customized software, such as personal information managers (PIM's), ring tones, games, or screen savers; or loss or damage to antennas, external

housings or casings that does not affect the mechanical or electrical function of the Covered Property.

- n. Normal wear and tear, gradual deterioration, inherent vice or latent defect.
- o. Malfunction including "Mechanical and/or Electrical Failure".
- p. "Computer Virus," whether intentional or unintentional, and whether such loss be direct or indirect, proximate or remote or be in whole or in part caused by, contributed to or aggravated by the Covered Causes of Loss insured against under this Coverage Form.

**C. Limits of Insurance**

The Aggregate Limit of Insurance is the most we will pay for all loss or damage under this policy or the maximum number of occurrences for a designated period of time, shown in the Declarations. Subject to the Aggregate Limit of Insurance, the most we will pay for loss or damage in any one occurrence to each Named Insured is the applicable Occurrence Limit of Insurance shown in the Declarations.

**D. Deductible**

Each occurrence is subject to a nonrefundable deductible. Such deductible must be paid prior to repair or replacement of any Covered Property.

**E. Definitions**

- 1. "Authorized Service Facility" means the location or locations that serve as a replacement facility for the program and supply replacements for Covered Property. Selection of the "Authorized Service Facility" will be at the sole discretion of us or our authorized representative.
- 2. "Computer Virus" means any unauthorized intrusive code or programming that is entered by any means into covered data processing equipment, media, software, programs, systems or records and interrupts the operations of Covered Property.
- 3. "Intentional Parting" means any act done purposely that contributes to the loss or theft of the Covered Property. Such acts include but are not limited to voluntary parting with the Covered Property in a community shared or public space by you or anyone entrusted with the Covered Property, surrendering the Covered Property to any non-governmental authority regardless of inducement to do so and entrusting or issuing the Covered Property to any of your authorized representatives.
- 4. "Mechanical or Electrical Failure" means failure of Covered Property to operate due to a faulty part or workmanship when operated according to the manufacturer's instructions.
- 5. "Pollutants" means any solid, liquid, gaseous, or thermal irritant or contaminant including but not limited to bodily fluids, condensation, smoke, vapor, soot, fumes, acid, alkalis, chemicals, artificially produced electric fields, magnetic field, electromagnetic field, sound waves, microwaves, and all artificially produced ionizing or non-ionizing radiation and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

By signing below, our President and the Secretary agree on our behalf to all the terms of this Policy.

  
\_\_\_\_\_  
PRESIDENT

  
\_\_\_\_\_  
SECRETARY

This Policy shall not be valid unless signed at the time of issuance by our authorized representative, either below or on the Declarations page of the policy.

  
\_\_\_\_\_  
AUTHORIZED REPRESENTATIVE

## ENDORSEMENT

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. forms a part of Policy No. 11050971 issued to New-Cell, Inc dba Cellcom by New Hampshire Insurance Company.

### COVERAGE EFFECTIVE DATE ENDORSEMENT

This endorsement modifies insurance provided under the following:

#### CERTIFICATE DECLARATIONS

**Item 2. When Coverage under Certificate is Effective** of the Declarations is amended to include the following:

- A.** Coverage under the Certificate is effective on the Day Coverage Effective shown in Column B corresponding to the Time the Request Submitted for Enrollment in Column A.

<b>A. Time Request Submitted for Enrollment</b>	<b>B. Day Coverage Effective</b>
Request for enrollment of coverage for new Covered Property submitted at time of purchase of Covered Property from Communications Equipment Service Provider	Coverage effective immediately following the submission of request for enrollment
Request for enrollment of coverage for used or refurbished Covered Property submitted at time of activation of Covered Property with Communications Equipment Service Provider	Coverage effective at 12:01 am on the last day of the Waiting Period for used or refurbished Covered Property shown in Paragraph B., below, following submission of request for enrollment, unless notified that request not approved

**B. Waiting Period**

Used or refurbished Covered Property                      **30 days**

All other terms and conditions of the policy remain the same.

## ENDORSEMENT

### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement, effective 12:01 a.m. forms a part of Policy No. 11050971 issued to New-Cell, Inc dba Cellcom by New Hampshire Insurance Company.

## WISCONSIN CHANGES

This endorsement modifies insurance provided under the following:

### COMMUNICATIONS EQUIPMENT COVERAGE FORM COMMUNICATIONS EQUIPMENT CERTIFICATE CONDITIONS

1. The COMMUNICATIONS EQUIPMENT COVERAGE FORM is modified as follows:  
Section **B. Exclusions** is amended to include the following:
  1. We will not pay for loss or damage arising out of any act committed:
    - a. By or at the direction of you; and
    - b. With the intent to cause a loss.
  2. However, this exclusion will not apply to deny coverage to an innocent co-insured victim of domestic abuse who did not cooperate in or contribute to the creation of the loss, provided the loss is otherwise covered under this Coverage Form and is proximately related to and
    - a. The loss arose out of an act or pattern of abuse or domestic abuse; and
    - b. The perpetrator of the loss is criminally prosecuted for the act or acts causing the loss.
  3. If we pay a claim pursuant to Paragraph **2.**, our payment to the innocent insured is limited to that insured's ownership interest in the property less any payments we first made to a mortgagee or other party with a legal secured interest in the property. In no event will we pay more than the Limits of Insurance.
2. The COMMUNICATIONS EQUIPMENT CERTIFICATE CONDITIONS is modified as follows:
  - A. Paragraph **2** of Section **A. Cancellation and Material Changes** is deleted and replaced by the following:
    2. We may cancel this policy by mailing or delivering to you written notice of cancellation at least 10 days before the effective date of cancellation.  
If this policy has been in effect for less than 60 days and is not a renewal policy, we may cancel for any reason.  
If this policy has been in effect for 60 days or more, except as provided in Paragraph **9.** below, we may cancel this policy only for one or more of the following reasons:
      - a. The policy was obtained by material misrepresentation;
      - b. There has been a substantial change in the risk we originally assumed, except to the extent that we should have foreseen the change or considered the risk in writing the policy;

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- c. There have been substantial breaches of contractual duties, conditions or warranties;  
or
- d. Nonpayment of premium.

If this policy has been in effect for 60 days or more or is a renewal of a policy we issued, the notice of cancellation will state the reason for cancellation.

**B. The following is added to Section A. Cancellation and Material Changes:**

**9. Anniversary Cancellation**

If this policy is written for a term of more than one year or has no fixed expiration date, we may cancel this policy for any reason by mailing or delivering to you written notice of cancellation at least 60 days before the anniversary date of the policy. Such cancellation will be effective on the policy's anniversary date.

We may cancel this policy because of the termination of an insurance marketing intermediary's contract with us only if the notice of cancellation contains an offer to continue the policy with us if we receive a written request from you prior to the date of cancellation.

**C. The following is added to Section A. Cancellation and Material Changes:**

**1. We may rescind this policy because of the following:**

- a. Misrepresentation made by you or on your behalf in the negotiation for or procurement of this Coverage Part, if the person knew or should have known that the representation was false;
- b. Breach of affirmative warranty made by you or on your behalf in the negotiation for or procurement of this Coverage Part;
- c. Failure of a condition before a loss if such failure exists at the time of loss; or
- d. Breach of a promissory warranty if such breach exists at the time of loss.

**2. We may not rescind this policy:**

**a. For the reasons in Paragraphs C.1.a. and C.1.b. unless:**

- (1) We rely on the misrepresentation or affirmative warranty and the misrepresentation or affirmative warranty is either material or made with intent to deceive; or
- (2) The facts misrepresented or falsely warranted contribute to the loss.

**b. For the reasons in Paragraphs C.1.c. and C.1.d. unless such failure or breach:**

- (1) Increases the risk at the time of loss; or
- (2) Contributes to the loss.

**3. If we elect to rescind this policy, we will notify you of our intention within 60 days after acquiring knowledge of sufficient facts to constitute grounds for rescission.**

**D. Paragraph 1. Transfer Of Your Rights Of Recovery Against Others To Us of Section D. Additional Conditions is amended to include the following:**

If we pay an insured for a loss to an innocent co-insured as described in Paragraph 2. of Section 1. of this endorsement, the rights of the insured to recover damages from the perpetrator are transferred to us to the extent of our payment. Following the loss, the insured may not waive such rights to recover against the perpetrator.

We will be entitled to any recovery only after you have been fully compensated for damages.

**C. Paragraph 2. Concealment, Misrepresentation or Fraud of Section D. Additional Conditions** is deleted in its entirety and replaced with the following:

1. No misrepresentation and no breach of affirmative warranty made by you or on your behalf in the negotiation for or procurement of this Coverage Part affects our obligations unless, if a misrepresentation, the person knew or should have known that the representation was false, and unless:
  - a. We rely on the misrepresentation or affirmative warranty and the misrepresentation or affirmative warranty is either material or made with intent to deceive; or
  - b. The facts misrepresented or falsely warranted contribute to the loss.
2. No failure of a condition before a loss and no breach of a promissory warranty affects our obligation under this Coverage Part unless such failure or breach exists at the time of loss and either:
  - a. Increases the risk at the time of loss; or
  - b. Contributes to the loss.

If, when inspected by the "Authorized Service Facility", the make/model and condition of the Covered Property does not match that as attested to in the Proof of Loss statement, or is not damaged, the Authorized Representative reserves the right to charge you the full retail value of the replacement device issued (up to a maximum amount shown in **Item 8.** of the Declarations).

All other terms and conditions of the policy remain the same.

**ENDORSEMENT NO. 3**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement, effective 12:01 a.m. May 15, 2019, forms part of Policy #11050971 issued to New-Cell Inc. d/b/a CellCom.

**CERTIFICATE DECLARATIONS ENDORSEMENT**

This endorsement modifies the Certificate Declarations as follows:

**Item 6. Authorized Representative:**

Name: **Brightstar Agency, LLC**  
Address: **P.O. Box 03 Alpharetta,  
GA 30009**  
Phone: **(888) 406-2446**

**Item 8. Deductible**

The deductible will be the amount corresponding to the retail price range of the Named Insured's wireless device when initially purchased.

<b>Retail Price Range</b>	<b>Replacement Deductible</b>	<b>Repair Deductible</b>
<b>\$225.00 - 524.99</b>	<b>\$100.00</b>	<b>\$50.00</b>
<b>\$525.00 - \$1,000.00</b>	<b>\$175.00</b>	<b>\$50.00</b>

**COMMUNICATIONS EQUIPMENT CERTIFICATE CONDITIONS ENDORSEMENT**

This endorsement modifies the Communications Equipment Certificate Conditions as follows:

**A. Loss Settlement**

1. In the event of loss or damage to Covered Property, we will arrange for the repair or replacement of the lost, stolen or damaged Covered Property through the "Authorized Service Facility".

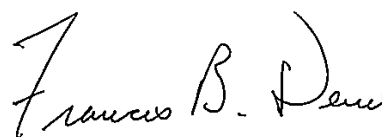
**COMMUNICATIONS EQUIPMENT COVERAGE ENDORSEMENT**

This endorsement modifies the Communications Equipment Coverage as follows:

**E. Definitions**

1. "Authorized Service Facility" means the location or locations that service as a repair or replacement facility for the program and supply repair or replacements for Covered Property. Selection of the "Authorized Service Facility" will be at the sole discretion of us or our authorized representatives.

All other terms and conditions remain unchanged.



Authorized Signature

**BRIGHTSTAR DEVICE PROTECTION, LLC**  
**SERVICE WARRANTY PROGRAM**  
**WIRELESS DEVICE SERVICE CONTRACT/EXTENDED WARRANTY**

The terms “You”, “Your”, and “Subscriber” refer to the purchaser of this service contract or extended limited warranty (hereinafter referred to as “Agreement”). The terms “We,” “Us,” “Our”, “Obligor”, and “Brightstar” refer to Brightstar Device Protection, LLC the provider of this Agreement.

**THIS AGREEMENT IS NOT AN INSURANCE POLICY. PURCHASE OF THIS AGREEMENT IS NOT REQUIRED TO PURCHASE OR OBTAIN FINANCING FOR THE DEVICE.**

- 1. COVERAGE:** In exchange for a Service Fee paid in accordance to the Payment Terms, we agree to repair or replace the Covered Product (“Covered Product”) listed on your receipt if, under normal conditions and use, the Covered Product fails to operate properly due to manufacturer’s defects or workmanship (the “Covered Causes”). All Covered Products replaced under this Agreement shall become the property of the Obligor. In order to obtain a replacement or repair, You must:
- (a) Call (888) 406-2446 within 60 days of the date your Covered Product first fails to operate properly and receive replacement or repair authorization. You will be required to provide the enrolled Subscriber and Covered Product information, including the make, model, IMEI/ESN/MEID or Serial Number, description of the Covered Cause, and if requested by Brightstar, proof of ownership of the Covered Product and any other reasonably requested documentation and verification.
  - (b) You must provide all required information pertaining to the Covered Product and Cause within sixty 60 days of initially reporting the claim, and if approved, take possession of the replacement device or have your wireless device repaired within 60 days of the approval.
  - (c) Upon Brightstar’s request, you must take the Covered Product to an Authorized Service Center for inspection and/or repair.
  - (d) If a replacement wireless device is to be provided, return the claimed Covered Product as directed to the Authorized Service Location immediately upon receipt of the replacement wireless device.
  - (e) Be a valid, active, and current Subscriber of Cellcom.
  - (f) Not have any outstanding debts or fees owed to Brightstar Device Protection, LLC.

Parts and service covered under any manufacturer, wireless service provider, or wireless retailer recall or warranty will be provided under that recall or warranty, as applicable. In neither circumstance will coverage be provided under this Agreement.

Purchase of this Agreement is not required in order to purchase or obtain financing for the Covered Product.

“Covered Product” means the eligible product owned by you and for which the unique identification number (International Mobile Equipment Identity (IMEI), Electronic Serial Number (ESN), Mobile Equipment ID (MEID), Serial Number, or other unique indemnification number) is on record with us when the Covered Product first fails to operate properly. To be considered Covered Product, the wireless device must have logged outgoing airtime with your Wireless Service Provider after the request for coverage for the Covered Product and within sixty 60 days prior to reporting the Wireless Device failure, and for which You can provide Us proof of ownership.

- 2. ELIGIBILITY:** Only Covered Products purchased from Cellcom or provided to the Subscriber as a replacement device as a result of a claim against this Agreement or the Manufacturer’s Warranty are eligible for coverage. You must be able to provide a valid proof of ownership at the time of purchase and/or claim.

As the program provider, Brightstar Device Protection, LLC accepts enrollment into the program at its sole discretion. The Subscriber must not be in breach of any material term of or have engaged in fraud with respect to this Agreement at any time.

- (a) By entering this Agreement, You, the Subscriber, understand and authorize Brightstar to access your account records with your Wireless Communications Service Provider to validate your enrollment and claim eligibility.
- (b) We may contact you regarding your coverage, enrollment, and/or claims via Short Message Service (SMS) text



messaging, email or such other means as Brightstar determines to be most practicable. You will assume any and all fees assessed by your wireless carrier for the SMS text messages. You may opt out of SMS messaging by updating your account on <https://cellcom.brightstarprotect.com> or sending your request via mail to Brightstar.

3. **EFFECTIVE PERIOD OF COVERAGE:** This Agreement shall become effective upon the Subscriber's payment of the Service Fee (the "Service Fee") due upon purchase date of this Agreement.

**YOUR COVERAGE FOR THE COVERED CAUSES UNDER THIS AGREEMENT SHALL BECOME EFFECTIVE IMMEDIATELY IF YOU PURCHASED THE COVERED PRODUCT AS NEW, IN ORIGINAL PACKING, OR CERTIFIED LIKE NEW FROM CELLCOM AND AT THE SAME TIME YOU PURCHASED THIS AGREEMENT OTHERWISE, COVERAGE WILL BEGIN THIRTY (30) DAYS AFTER THE AGREEMENT PURCHASE.**

4. **COMMUNICATOINS AND CONSENTS:** As the program provider, Brightstar Device Protection, accepts subscriptions at its sole discretion. The Subscriber must not be in breach of any material term of or engage in fraud with respect to this Agreement at any time. It is the Subscriber's obligation to keep Brightstar informed of the Subscriber's mailing address, electronic mail address, telephone number or other messaging addresses. If the Subscriber does not update the contact information, the Subscriber agrees and consent to waiving any dispute that a notification sent to an address on record with Brightstar was not adequate.

(a) You, the Subscriber, understand and authorize Brightstar to access your account records with your Wireless Communications Service Provider to validate your enrollment and claim eligibility. We may contact you regarding your coverage, enrollment, and/or claims via electronic mail, Multimedia Messaging Services (MMS), Short Message Service (SMS) text messaging or a voice call. You will assume all fees assessed by your wireless carrier for the SMS text messages. You may opt out of SMS messaging by updating your account on <https://cellcom.brightstarprotect.com> or sending your request via mail to Brightstar. If you use a mobile application, We may contact You through the mobile application via both notifications posted on the mobile application or via messages issued through the mobile application. (b) You agree that You may be contacted regarding renewals and upgrade plans. (c) If the payment card for the Plan expires or cancels, You agree that the payment card replacing the expired or canceled card may be charged the applicable Fee. By accepting coverage in this program, you authorize the financial institution issuing the payment card to (i) release required subscriber information for the purpose of validating claims and (ii) charge your credit/debit card on file, or the replacement card issued by the payment card issuer for the card on file, which may include updated validated card information, including but not limited to expiration date(s), card number(s), and security code(s), as received by your financial institution in accordance with applicable law and to release your contact information. You expressly authorize and agree for Brightstar Device Protection, LLC to obtain information from the financial institution regarding an expired or canceled credit/debit card and authorize the replacement credit/debit card be charged the applicable. For clarity, expiration or cancellation of the credit card used to pay the Fees does not cancel Your subscription to the Program.

5. **TERM AND RENEWAL:** The Term Period is monthly. You understand and agree that this Agreement will be automatically renewed for successive months on a continuous basis unless You or We terminate this Agreement pursuant to Section "CANCELLATION/TERMINATION AND REFUNDS". The Subscriber's failure to pay the Service Fee in advance or ceasing to be an active subscriber of Cellcom or the Total Coverage Program, regardless of cessation reason, is considered termination of the Agreement by the Subscriber and the Agreement may not be renewed.

No party is obligated to renew this Agreement. Prices, conditions and limitations of this Agreement may change upon renewal. By purchasing this Agreement, You agree that You may be contacted regarding renewals and upgrade plans.

6. **CHANGE IN COVERED PRODUCT:** This Agreement only provides coverage for the Covered Product listed on your receipt. If a change in the Covered Product being used on your account occurs, you must apply for coverage of the new product. Such product will be subject to the Agreement terms and conditions under the Agreement for that Product at the time of request for a change in Covered Product, which may include a higher fee and/or deductible and/or a wait period for coverage. If you continue to pay Service Fees after we have been notified of such change in Covered Product or a change in Covered Product results from a claim against this Agreement, You have agreed to all

changes to coverage, premium, and deductibles. Changes to Covered Product are subject to approval by Brightstar; You will be notified within thirty (30) days of request if such change was denied.

**7. REPAIR OR REPLACEMENT OF PRODUCTS:** At Our sole discretion, we may replace or repair the Covered Device/Enrolled Device/Protected Device. If we elect to replace the Covered Device/Enrolled Device/Protected Device and the identical make and model is no longer available or unavailable in inventory, we will replace it with a product of comparable functionality. In all cases, we will determine product comparability, including functionality at Our sole discretion. Technological advances and product availability may result in a replacement product with a lower selling price than the original product. At Our option, a replacement product may be either new or refurbished and of a different brand, model, and/or color. Non-original manufacturer parts may be used in refurbished products or to repair the Covered Device/Enrolled Device/Protected Device. Any time Your Covered Device/Enrolled Device/Protected Device is to be replaced or repaired in accordance with this Agreement, at our sole discretion, we may provide cash reimbursement, gift card or voucher for replacement equipment, not to exceed the lesser of retail purchase price You paid for the original Covered Device/Enrolled Device/Protected Device or the cost of a replacement product of like kind and quality, less any processing fee. If you are eligible for a reimbursement, you will be required to provide proof of purchase for the replacement equipment. If you select monthly coverage/protection, Your coverage/protection does not expire while Your device is being repaired for a covered service.

- (a) Equipment Warranty: Refurbished equipment shall be in good, working order, with housing that is free from major marks, gouges, cracks or other faults or blemishes. In the event that repaired or refurbished replacement equipment malfunctions within its ninety (90) day warranty period and is returned, such equipment will not result in an additional service request per the service request limits outlined in this Agreement.
- (b) Equipment may not be shipped to a P.O. Box.
- (c) If the Covered Device/Enrolled Device/Protected Device is operated outside any state or territory of the United States, the District of Columbia, or Canada, the replacement device will only be shipped to the address on record.

Any time your Covered Product is to be replaced or repaired in accordance with this Agreement, at our sole discretion, we may provide cash reimbursement, gift card or voucher for replacement equipment, not to exceed the lesser of retail purchase price You paid for the original covered product or the cost of a replacement product of like kind and quality, less any processing fee. If you are eligible for a reimbursement, you will be required to provide proof of purchase for the replacement equipment.

**8. PAYMENT AND FEES:**

- (a) **Payment:** For each Term Period You desire coverage under this Agreement, You shall remit to Us a Service Fee payable in accordance to these Payment Terms (“Payment Terms”).

Your Service Fee is based on the new non-discounted, non-subsidized retail price of the make and model of the Covered Product at the time You purchased the Covered Product and the length of Your Term Period. Refer to the following table for Your Service Fee.

New Retail Price	Service Fee
\$0.00 - \$224.99	\$1.00
\$225.00 - \$524.99	\$2.00
\$525.00 - \$999.99	\$3.00
\$1,000.00 - \$1,500.00	\$3.00

Your **monthly** Service Fee for this Agreement will be shown on your **monthly** service bill from Cellcom. You agree to pay the amount shown on your bill to Cellcom inclusive of the manufacturer’s warranty period, in accordance to the same terms and conditions set forth under Your Cellcom subscriber agreement.

- (b) **Processing Fee Per Replacement or Repair:** The Subscriber shall pay a non-refundable Processing Fee on a per occurrence basis prior to receiving any repair or replacement or reimbursement for the Covered Product (the “Processing Fee”).

Your Processing Fee is \$50.00

- (c) **Failure to Return Equipment:** You must surrender the Covered Product immediately upon receipt of Your

replacement product to the Authorized Service Location providing the replacement product, and you must solely bear the costs of transporting the Covered Product to the Authorized Service Location.

You must return the Covered Product as directed by Us. You are solely responsible for backing up any information or the device and removing all personal information on the device. Brightstar has not responsibility for preserving, restoring or destroying any information on a returned device.

- (d) **Invalid Claim:** If, within the latter of twenty (20) days after the Subscriber receives the replacement equipment or Brightstar receives the claimed Covered Product, Brightstar determines, in its sole discretion, that the Subscriber's replacement coverage claim is not for a Covered Cause under this Agreement, the Subscriber's Account shall automatically be charged an amount not to exceed the manufacturer's suggested retail price of the replacement equipment less any Deductible received.

**9. LIMITATION OF LIABILITY AND EXCLUSIONS:** Brightstar's liability hereunder shall be limited to the cost of **two (2) repairs** and replacement devices within any **twelve (12) months** and in no event shall the cost of such replacement equipment for the Covered Product exceed the Maximum Benefit of **\$1,500.00** per claim occurrence. If You have exhausted the allowable number of claims, the service fee is fully earned.

This Agreement does not cover the following:

- a) Products owned by a subscriber with a billing address or service address outside any state or territory of the United States, the District of Columbia, or Canada;
- b) Any and all pre-existing conditions or defects that exist before the effective date of this Agreement;
- c) Products with altered or removed serial numbers;
- d) Products used for rental purposes;
- e) Any failure resulting from any cause other than normal use and operation of the Covered Product in accordance with the manufacturer's specifications and owner's manual, including, without limitation, damages or injury caused in whole or in part by acts of God, theft, loss, neglect, abuse, intentional misuse, negligence, mishandling, misuse, vandalism, insects, vermin, wild animals, power failure, power surge, power reduction, software viruses or exposure to weather conditions, including exposure to extreme changes in temperature or humidity;
- f) Damage that is cosmetic in nature, including but not limited to scratches, tears, dents and broken plastic on parts when the damage does not otherwise affect or impede its functionality or materially impair Your use of the Covered Product;
- g) Preventative maintenance;
- h) Batteries, chargers and car kits;
- i) Data lost, corrupted, damaged or otherwise unusable;
- j) Claim due to diminished battery life;
- k) Accessories that are non-essential to the functioning of the product;
- l) Software including, but not limited to, personalized data or customized software, such as personal information managers (PIMs), ring tones, games or screen savers;
- m) Any alteration, adjustment, modification, installation, disassembling, repair, servicing or maintenance performed on or to the Covered Product by any person other than Brightstar, Seller (as defined in the Brightstar Service Warranty Program Service Contract/Extended Limited Warranty), or their respective authorized representatives;
- n) Claimed obsolescence of the Covered Product including technological obsolescence; or
- o) The Subscriber's failure to use reasonable means to protect the Covered Product from further damage after a failure occurs.
- p) Products that are not purchased from Cellcom or its authorized dealers.

UNDER NO CIRCUMSTANCES SHALL BRIGHTSTAR BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES, WHETHER ARISING DIRECTLY OR INDIRECTLY FROM THE FAILURE OF THE COVERED PRODUCT, DELAYS IN REPLACEMENT OF THE WIRELESS DEVICE OR FROM ANY OTHER CAUSE WHATSOEVER, WHETHER SUCH CLAIM IS BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE OR OTHER TORT, STRICT LIABILITY OR ANY OTHER LEGAL THEORY. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO THE SUBSCRIBER IF THE SUBSCRIBER LIVES IN SUCH STATE.

**10. NO TRANSFER; NO THIRD PARTY BENEFICIARIES:** This Agreement and any rights and remedies of

the Subscriber hereunder shall inure solely to the benefit of the Subscriber and nothing herein is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement and any rights or remedies of the Subscriber hereunder are non-transferable by the Subscriber and do not cover any claim made under this Agreement by any other person or entity, and any attempt by the Subscriber to transfer or assign this Agreement or any rights or remedies of the Subscriber hereunder shall be null and void and of no force or effect.

**11. CANCELLATION/TERMINATION AND REFUNDS:**

- (a) The Subscriber may cancel this Agreement at any time for any reason by calling Cellcom at (800) 236-0055 or delivering advance written notice of cancellation to Brightstar Cancellation Department, P.O. Box 03, Alpharetta, GA 30009. Your right to void this Agreement during the first thirty (30) days following receipt is not transferable and applies only to the original Agreement purchaser. Brightstar may cancel this Agreement immediately for any reason by notifying You in writing. Any cancellation of this Agreement by Brightstar shall be in accordance with applicable state laws and regulations.
- (b) Unless otherwise required under applicable law, if the Subscriber or Brightstar cancels this Agreement within thirty (30) days after the Subscriber purchases this Agreement and the Subscriber has not made a claim under this Agreement, the Agreement is considered void and Brightstar shall remit to the Subscriber a full refund of the Service Fees paid by the Subscriber under this Agreement.
- (c) Unless otherwise specified under applicable law, if the Subscriber or Brightstar cancels this Agreement within thirty (30) days after the Subscriber purchases this Agreement and the Subscriber has made a claim under this Agreement, Brightstar shall remit to the Subscriber a full refund of the Service Fees paid by the Subscriber under this Agreement less the value of any replacement equipment provided for such claim by Brightstar to the Subscriber.
- (d) Unless otherwise required under applicable law, if the Subscriber or Brightstar cancels this Agreement more than thirty (30) days after the Subscriber purchases this Agreement, Brightstar shall remit to the Subscriber the Service Fees paid by the Subscriber under this Agreement allocable to the remainder of the term of this Agreement, prorated on a daily basis, less the value of any replacement equipment previously provided by Brightstar to the Subscriber under this Agreement.
- (e) Unless otherwise required under applicable law, Our obligations under this Agreement will be fulfilled in their entirety if we have fulfilled **two (2)** claims in any rolling **twelve (12)** month period, as applicable by repairing or replacing the Covered Product or by providing reimbursement.
- (f) For residents of the states of Alabama, Arkansas, California, Hawaii, Maryland, Minnesota, Missouri, Nevada, New Mexico, New York, Puerto Rico, South Carolina, Texas, Washington and Wyoming at the time of cancellation of this Agreement, if Brightstar fails to remit to the Subscriber any amounts due and owing from Brightstar to the Subscriber under this Section within thirty (30) days after the effective date of cancellation of this Agreement, Brightstar shall remit to the Subscriber the amount due and owing from Brightstar plus an additional ten percent (10%) of such amount for each month Brightstar fails to remit to the Subscriber such amount.

**12. Dispute Resolution and Arbitration. WE EACH AGREE THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL CLAIMS, DISPUTES, OR CONTROVERSIES OF ANY NATURE IN ANY WAY RELATED TO OR CONCERNING THIS AGREEMENT, OUR PRIVACY POLICY, OR OUR SERVICES OR PRODUCTS, INCLUDING ANY BILLING DISPUTES, WILL BE RESOLVED BY BINDING ARBITRATION OR IN SMALL CLAIMS COURT.** This agreement to arbitration extends to the relationships which result from this Agreement, including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement or this arbitration provision. The validity, scope, or enforceability of this arbitration provision or the entire Agreement shall also be resolved by final and binding arbitration before a single arbitrator. This includes any claims against other parties relating to services or products provided or billed to you whenever you also assert claims against us in the same proceeding. We each also agree that this arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. Sections 1, et. seq. **THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW OF AN ARBITRATION AWARD IS LIMITED. THE ARBITRATOR MUST FOLLOW THIS AGREEMENT AND CAN AWARD THE SAME DAMAGES AND RELIEF AS A COURT (INCLUDING ATTORNEYS' FEES) ON AN INDIVIDUAL BASIS.**

Notwithstanding the above, **YOU MAY CHOOSE TO PURSUE YOUR CLAIM IN COURT AND NOT BY ARBITRATION IF YOU OPT OUT OF THESE ARBITRATION PROCEDURES WITHIN 30 DAYS FROM THE DATE OF THIS AGREEMENT (the “Opt Out Deadline”)**. You may opt out of these arbitration procedures by sending a letter to Brightstar Device Protection, LLC, P.O. Box 03, Alpharetta, GA 30009. **Any opt-out received after the Opt Out Deadline will not be valid, and you must pursue your claim in arbitration or small claims court.**

For all disputes, whether pursued in court or arbitration, you must first give us an opportunity to resolve your claim by sending a written description of your claim to Brightstar Device Protection, LLC, P.O. Box 03, Alpharetta, GA 30009. We each agree to negotiate your claim in good faith. If we are unable to resolve the claim within 60 days after we receive your claim description, you may pursue your claim in arbitration. We each agree that if you fail to timely pay amounts due, we may assign your account for collection, and the collection agency may pursue, in small claims court, claims limited strictly to the collection of the past due amounts and any interest or cost of collection permitted by law or this Agreement.

**If the arbitration provision applies or you choose arbitration to resolve your disputes, then either you or we may start arbitration proceedings.** You must send a letter requesting arbitration and describing your claim to our registered agent at CT Corporation, 1201 Peachtree Street NE, Atlanta, GA 30361 and the American Arbitration Association (“AAA”) to begin arbitration. All arbitration shall be administered by the AAA in accordance with its Wireless Industry Rules and Procedures in effect at the time the claim is filed. The AAA Wireless Industry Rules and Procedures are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. Any arbitration that you attend will take place at a location within the federal judicial district that includes your billing address at the time the claim is filed. The arbitrator shall apply relevant, substantive law and applicable statutes of limitation and shall provide written, reasoned findings of fact and conclusions of law. Upon filing of the arbitration demand, we will pay all filing, administration, and arbitrator fees for claims that total less than \$75,000. In addition, for claims under \$75,000 as to which you provided notice and negotiated in good faith as required above before initiating arbitration, if the arbitrator finds that you are the prevailing party in the arbitration, you will be entitled to a recovery of reasonable attorneys’ fees and costs. Except for claims determined to be frivolous, we agree not to seek an award of attorneys’ fees in arbitration even if an award is otherwise available under applicable law.

**CLASS ACTION WAIVER. WE EACH AGREE THAT ANY PROCEEDINGS, WHETHER IN ARBITRATION OR COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS OR REPRESENTATIVE ACTION OR AS A MEMBER IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION.** If a court or arbitrator determines in an action between you and us that this Class Action Waiver is unenforceable, the arbitration agreement will be void as to you. **Neither you, nor any other customer, can be a class representative, class member, or otherwise participate in a class, consolidated, or representative proceeding.**

**JURY TRIAL WAIVER. If a claim proceeds in court rather than through arbitration, WE EACH WAIVE ANY RIGHT TO A JURY TRIAL.**

13. **NOT A CONTRACT OF INSURANCE:** This Agreement is not an insurance policy or a contract of insurance. Brightstar Device Protection, LLC is the obligor except in Wisconsin where the obligor Atlantic Specialty Insurance Company, 605 North Highway 169, Ste. 800, Plymouth, MN 55441 (1-800-368-2095). In Wisconsin, the obligations Customers:

14. **SELLER.** The Seller of this Agreement is as listed on your receipt.

15. **STATE SPECIFIC VARIATIONS.** The following state specific variations shall control if inconsistent with any other terms or conditions of this Agreement:

(a) **Wisconsin Customers.** THIS CONTRACT IS SUBJECT TO LIMITED REGULATION BY THE OFFICE OF COMMISSIONER OF INSURANCE.

Section “CANCELLATION/TERMINATION AND REFUNDS” is removed and replaced with the following:

Brightstar shall not cancel this Agreement except for: (i) nonpayment of the provider fee, (ii) material misrepresentation by the contract holder to the provider or administrator, or (iii) the substantial breach of duties by the service contract holder relating to the covered product or its use. Cancellation of this Agreement shall be in writing to the Subscriber five (5) days before the cancellation effective date. The notice of cancellation shall include the effective date and reason for cancellation. If this service contract is cancelled by the provider for a reason other than nonpayment of the provider fees, the provider shall refund to the service contract holder 100 percent of the unearned pro rata provider fee, less any claims paid. The Subscriber may, within twenty (20) days of the delivery of this Agreement, reject and return this Agreement to Brightstar for a full refund of the Service Fees paid by the Subscriber under this Agreement, less any claims paid. After the first twenty (20) days, the Subscriber may cancel this Agreement and shall receive a refund of 100 percent of the unearned pro rata Service Fees, less any claims paid. If Brightstar does not pay or credit a refund within forty five (45) days after the return of the service contract to Brightstar, then Brightstar shall pay a 10 percent per month penalty of the refund amount outstanding which Brightstar shall add to amount of the refund. Brightstar may charge a reasonable administrative fee for the cancellation, which may not exceed ten (10) percent of the provider fee. Section "DISPUTE RESOLUTION" shall not apply.

**16. ENTIRE AGREEMENT.** This Agreement sets forth the entire understanding of the Parties relating to the subject matter hereof, and all prior understandings, written or oral, with respect to the subject matter hereof, are superseded by this Agreement. This Agreement may not be modified, amended, waived or supplemented except as provided herein.

**17. GOVERNING LAW.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia (without regard to its conflicts or choice of laws principles that could or would cause the application of law any other state or jurisdiction).

**18. AMENDMENT; WAIVER.** No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless contained in a writing specifically referencing this Agreement and duly executed by the Party against whom enforcement of the amendment, modification, discharge or waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. Neither the waiver by either of the Parties of a breach of or a default under any of the provisions of this Agreement, nor the failure by either of the Parties, on one or more occasions to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder.

END OF AGREEMENT