

## Embarq Wireless Equipment Warranty

Embarq

For service, visit an Embarq Store  
or call 1-866-238-9265  
Contract Price: \$2.95/MO.

Asurion Warranty Protection Services, LLC.  
**Asurion Warranty Protection Services  
of Florida, LLC.**  
Program Administrators and Service Companies  
Post Office Box 411605  
Kansas City, MO 64141-1605

As used in this Contract, "We", "Us", and "Our" means the company obligated under this Contract as follows: If this Contract is purchased in Alabama, Georgia, Hawaii, Kentucky, Minnesota, Missouri, Nevada, New Hampshire, New Mexico, New York, Oregon, South Carolina, Texas, Vermont, Washington, Wisconsin, or Wyoming Asurion Warranty Protection Services, LLC; if purchased in Florida, **Asurion Warranty Protection Services of Florida, LLC**; and if purchased in any other jurisdiction, Embarq. "You" and "Your" means the Person who purchased this Contract. If purchased by phone, internet or other electronic means this Contract is purchased in the state identified in Your billing address in the records of Embarq at the time of purchase.

### *Terms & Conditions*

**Embarq Wireless Equipment Warranty** These Contract terms and conditions together with Your monthly bill ("Bill") from Embarq (the "Contract") govern the Program, so You should keep this Contract for future reference. Your Embarq mobile telephone number for the Covered Equipment is Your Contract number. Asurion is the Program Administrator.

**Agreement.** You agree to all the provisions of this Contract when You order the Program and/or pay for it. We may change the monthly charge for the Program, the administration of the Program, or these terms and conditions from time to time upon at least 30 days written notice to You. Such notice may be provided in a Bill insert, as a message printed on Your Bill, in a separate mailing, or by any other reasonable method, at Our discretion. Your continued use of the Program and payment of the charges, after such notice, constitutes Your acceptance of the changes. The Program is available only to customers of Embarq. Your participation in the Program is optional and You may cancel the Program at any time. Please refer to the section in this Contract regarding cancellation.

**Definitions.** (1) "Embarq" means Embarq Management Company, and any successors. (2) "Asurion" means **Asurion Warranty Protection Services of Florida, LLC** in Florida, and Asurion Warranty Protection Services, LLC in all other jurisdictions. Asurion is located at Post Office Box 411605, Kansas City, MO 64141-1605. (3) "Covered Equipment" means one Designated Wireless Device and, if failure occurs in any one or more of these accessories in conjunction with the Operational Failure of the Designated Wireless Device, one standard battery and/or one standard charger, as applicable. (4) "Designated Wireless Device" means the Eligible Wireless Product which is activated for wireless telecommunications service for the enrolled Mobile Data Number on Your account with Embarq on the date the Operational Failure of the Eligible Wireless Product occurs and for which air time has been logged by Embarq as identified by Electronic Serial Number (ESN). (5) "Eligible Wireless Product" means a Embarq wireless phone or device that We have designated as eligible for coverage under the Program. (6) "Operational Failure" means operational or structural failure of the Designated Wireless Device to operate due to defects in materials or workmanship, normal wear and tear, or power surge. (7) "Replacement Equipment" means the wireless device of comparable kind and quality to the Designated Wireless Device which We provide to You in the event of a covered Operational Failure of the Designated Wireless Device. (8) "Date Issued" means the date Your request for enrollment is received by Us or Our authorized representative. (9) "Effective Date" means the Date Issued. Enrollment after the time of initial activation of Your Embarq service for the Covered Equipment may be subject to limitation. (10) The "Program" means the wireless telecommunications equipment service warranty program described in this Contract. (11) "Designated Retail Location" means a retail store location designated by Us as authorized to provide Replacement Equipment or repairs.

**What is Covered.** If the Designated Wireless Device fails due to an Operational Failure, We will repair it, or, at our sole option, replace it with a device of comparable kind and quality and, if failure occurs in any one or more of these accessories in conjunction with the Operational Failure of the Designated Wireless Device, one standard battery and/or one standard charger, as applicable. **THERE IS NO ASSURANCE, REPRESENTATION, OR WARRANTY THAT ANY REPLACEMENT EQUIPMENT WILL BE IDENTICAL OR OFFER THE SAME FUNCTIONALITIES AS THE ITEM BEING REPLACED.** Replacement Equipment will be new or refurbished, in Our sole discretion. The wireless device included with the Replacement Equipment immediately becomes the Designated Wireless Device. You hereby assign to Us all rights and benefits of any manufacturer's warranty or other ancillary coverage relating to any Covered Equipment that We replace.

**Contract Period.** Your coverage begins on the Effective Date and continues from month to month until terminated by You or by Us. We may elect not to renew the Program upon 30 days written notice to You.

**Charges.** You will be billed once each month on Your Bill from Embarq. Applicable non-return charges, non-covered claim charges, shipping and restocking charges, taxes, and regulatory surcharges and assessments, if any, may be added to Your Bill or, at Our discretion, collected from You prior to providing Replacement Equipment. If We do not receive full payment on the due date shown on the Bill, a late payment fee of 1.5% per month or the highest amount allowed by law, whichever is less, may be charged. A charge may also be assessed for returned checks.

### **What is not Covered.**

The Program does not cover:

(1) incidental or consequential damages; (2) failures caused by acts of God, fire, flood, explosion, war, terrorism, strike, embargo, acts of the government, military authority, or the elements; (3) loss, theft, abuse, misuse, improper installation, water damage, or customer negligence; (4) pre-existing Operational Failures of the Covered Equipment occurring before the time it was established as the Covered Equipment; (5) cracked displays unless resulting from normal wear and tear or defect in parts or manufacturing; and (6) changes or

enhancements in color, texture, finish, expansion, contraction, or any cosmetic damage to Covered Equipment however caused, including, but not limited to, scratches and marring, that do not affect the mechanical or electrical function of the Designated Wireless Device.

Further, Covered Equipment does not include and the Program does not cover:

(1) Contraband or property in the course of illegal transportation or trade; (2) Property in transit to You from anyone other than Us; (3) Routine maintenance and consumable items, such as batteries (one standard battery will be provided with Replacement Equipment on approved claims for replacement of the Designated Wireless Device if the battery has also failed); (4) Battery chargers (one standard charger will be provided with Replacement Equipment on approved claims for replacement of the Designated Wireless Device if the charger has also failed); (5) Antennas, unless there is also an Operational Failure of the Designated Wireless Device; or (6) Any accessories, (except as otherwise provided with respect to batteries and battery chargers), including but not limited to color face plates, personalized data, or customized software, such as personal information managers (PIMs), ring tones, games, or screen savers.

**To Obtain Service.** In the event of an Operational Failure of a Designated Wireless Device, we will provide for claim fulfillment, at our sole discretion, by phone or at designated retail locations. Designated Retail Locations may not be available in Your area and may not be in use by the Program at all times. You must file the claim within 60 days of the Operational Failure. If Your claim is approved by phone, We will provide the Replacement Equipment by mail within 10 business days, or We may require You to pick up the Replacement Equipment at a retail location in Your area. We may require You to provide a government issued photo i.d.

**Return of Replaced Equipment/Non-return Charge.** Covered Equipment approved for replacement must be returned to Us at Our shipping expense in the return mailer included with Your Replacement Equipment or, if Your Replacement Equipment is provided at Designated Retail Location, You will be required to return the failed Covered Equipment at the Designated Retail Location. If You fail to return the Covered Equipment as directed by Us, Your claim may be declined or the then current suggested retail price of the Replacement Equipment, exclusive of any rebates, may be included on Your Bill as a non-return charge.

**Charge for Non-Covered Claims.** We will notify You in writing within thirty (30) days of the return of replaced Covered Equipment if We determine the returned Designated Wireless Device did not suffer an Operational Failure covered by the Program. A non-covered claim charge equal to the then current suggested retail price of the Replacement Equipment, exclusive of any rebates, will be applied to Your Bill unless You return the Replacement Equipment, in good working order, at Your cost of shipping within fifteen (15) days of Our notification. If You return the Replacement Equipment as required by this Contract, We will return to You Your original Covered Equipment and a \$15 shipping and restocking charge will be included on Your Bill.

**Cancellation.** You may cancel this Contract within 30 days from Your receipt of this Contract (the First 30 days), by returning it to Us or providing written notice to Us at the address listed in this Contract. You will then receive a refund or credit on Your Bill for the full Contract price paid unless You had a covered claim during the First 30 days. In the event You had a covered claim during the First 30 days, your refund will be the greater of the full Contract Price paid less the cost of any covered claim or 100% of the pro-rata amount of the unearned portion of the Contract price paid, if any, based upon elapsed time. You may also cancel this Contract at any other time by surrendering it or providing written notice to Us at the address listed in this Contract. This Contract may be cancelled by You or by Us for any reason at any time. If You or We cancel this Contract, We will refund You 100% of the pro-rata amount of the unearned portion of the Contract price paid, if any, based upon elapsed time. For residents of Alabama, California, Hawaii, Maryland, Minnesota, Missouri, Nevada, New Mexico, New York, South Carolina, Texas, Washington, and Wyoming, any refund owed and not paid or credited within 30 days of return of the Contract to Us shall include a 10% penalty per month. If You fail to make any monthly payment for this Contract or any charge provided for in this Contract, coverage will cease on the date the payment was due. In the event We cancel this Contract, We shall provide You with a written notice at least thirty (30) days prior to the effective date of cancellation, which notice shall state the effective date and grounds for cancellation. Any termination, cancellation, suspension, interruption, or discontinuation of Your wireless product service with Embarq for any reason constitutes cancellation of the Program by You, subject to the terms and conditions of this Contract.

**Limitation of Liability.** In the event of any error, omission or failure by Asurion or Embarq with respect to the Program or the services provided by Asurion or Embarq hereunder, Asurion and Embarq's RESPONSIBILITY AND LIABILITY SHALL BE LIMITED TO THE CHARGES ACTUALLY PAID BY YOU FOR THE PROGRAM (BUT NO MORE THAN THE LAST 24 MONTHLY CHARGES YOU PAID FOR THE PROGRAM). THIS IS YOUR SOLE REMEDY FOR ANY ERRORS, OMISSIONS OR FAILURE OF Asurion OR Embarq PERFORMANCE. FURTHER, UNDER NO CIRCUMSTANCES SHALL Asurion OR Embarq BE LIABLE FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES (EVEN IF Asurion OR Embarq HAVE BEEN ADVISED OF OR HAVE FORESEEN THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM THE PROGRAM OR Asurion OR Embarq PERFORMANCE UNDER THE PROGRAM, OR UNDER ANY PROVISION OF THIS CONTRACT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS CONTRACT, WE HEREBY SPECIFICALLY DISCLAIM ANY AND ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PROGRAM AND SERVICES TO BE PROVIDED HEREUNDER BY Asurion AND Embarq, INCLUDING ANY IMPLIED WARRANTY OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

**Dispute Resolution.** All disagreements and disputes between You and Asurion or Embarq, of every kind, if not resolved by negotiations, shall be resolved by arbitration under the then current consumer arbitration rules of the American Arbitration Association. Any arbitration which You attend will take place at a location within the federal judicial district that includes Your billing address. A single arbitrator engaged in the practice of law shall conduct the arbitration and the arbitrator's decision and award shall be final and binding, and judgment upon the award may be entered in any court having jurisdiction. All claims must be arbitrated individually, and there will be no consolidation or class treatment of any claims.

**Force Majeure.** We have no responsibility for delays or failures due to acts of God, fire, flood, explosion, war, strike, embargo, acts of the government, military authority, or the elements, or other causes beyond Our control, and in such event, We may cancel this Contract and the Program immediately.

**Prohibitions on Transfer and Abuse of the Program.** This Program is for Your use only. It is not transferable by You to any other person, and may not be assigned by You. Wireless devices owned or leased by anyone other than You may not be made a Designated Wireless Device. Any abuse of the Program by You, including but not limited to seeking replacement of a wireless device not belonging to You, may result in termination of the Program upon notice.

**Insurance.** This Contract is not an insurance policy. However, Our obligations under this Contract are insured under an insurance policy issued by The Continental Insurance Company, CNA Plaza, Chicago, Illinois 60685. If We fail to act on Your claim within 60 days, You may contact The Continental Insurance Company directly at 1-800-831-4262.

Terms and conditions vary for Embarq customers purchasing in some jurisdictions as set forth in this Contract. This Program may not be available in all states.

**State specific provisions:**

**In California:** The requirements of the Dispute Resolution provision in this Contract do not prohibit a California resident from following the process to resolve complaints as outlined by the California Bureau of Electronic and Appliance Repair (BEAR). To learn more about this process, you may contact BEAR at 1-800-952-5210, or you may write to Department of Consumer Affairs, 3485 Orange Grove Avenue, North Highlands, California 95660, or you may visit their website at [www.bear.ca.gov](http://www.bear.ca.gov).

**In Connecticut:** The term of this Contract will be automatically extended for the period during which the Covered Equipment is in the custody of a service center for repair.

**In Florida:** With respect to Florida residents, the Dispute Resolution provision of this Contract is amended to provide that the Arbitrator's decision and award shall be non-binding on You and on Us. No suit shall be commenced in a federal, state, or local court until such time as both You and We first address our disagreement in an arbitration proceeding pursuant to the Dispute Resolution provision in this Contract.

**In Georgia:** We may not cancel before the expiration of the monthly Contract term, unless You fail to pay any amount due or You engage in fraud or material misrepresentation in obtaining this Contract. Cancellation will comply with section 33-24-44 of the Code of Georgia. The Dispute Resolution provision of this Contract is amended to provide that the Arbitrator's decision and award shall be non-binding on You and on Us. No suit shall be commenced in a federal, state, or local court until such time as both You and We first address our disagreement in an arbitration proceeding pursuant to the Dispute Resolution provision in this Contract. Subsection (4) of the What is Not Covered provision in this Contract is replaced with the following: pre-existing Operational Failures known to you, of the Covered Equipment occurring before the time it was established as the Covered Equipment.

**In Michigan:** If performance under this Contract is interrupted because of a strike or work stoppage at Our place of business, the effective period of the Contract shall be extended for the period of the strike or work stoppage.

**In Nevada:** If this Contract has been in force for a period of seventy (70) days, We may not cancel before the expiration of the monthly Contract term, unless: 1) You fail to pay any amount due; 2) You are convicted of a crime which results in an increase in the service required under the Contract; 3) You engage in fraud or material misrepresentation in obtaining this Contract; 4) You commit any act, omission, or violation of any terms of this Contract after the effective date of this Contract which substantially and materially increases the service required under this Contract; or 5) any material change in the nature or extent of the required service or repair occurs after the effective date of this Contract and causes the required service or repair to be substantially and materially increased beyond that contemplated at the time You purchased this Contract. Your right to void this Contract during the first 30 days following receipt is not transferable and applies only to the original Contract purchaser.

**In New Hampshire:** Contact Us at {Insert Toll Free Number} with questions, concerns, or complaints about the program. In the event You do not receive satisfaction under this Contract, You may contact the State of New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord, New Hampshire 03301, telephone number: 603-271-2261.

**In New Mexico:** If this Contract has been in force for a period of seventy (70) days, We may not cancel before the expiration of the monthly Contract term, unless: 1) You fail to pay any amount due; 2) You are convicted of a crime which results in an increase in the service required under the Contract; 3) You engage in fraud or material misrepresentation in obtaining this Contract; 4) You commit any act, omission, or violation of any terms of this Contract after the effective date of this Contract which substantially and materially increases the service required under this Contract; or 5) any material change in the nature or extent of the required service or repair occurs after the effective date of this Contract and causes the required service or repair to be substantially and materially increased beyond that contemplated at the time You purchased this Contract.

**In North Carolina:** You understand that the purchase of this Contract is not required to purchase or to obtain financing for the Covered Equipment. We may non-renew, but may not cancel this Contract prior to the expiration of the monthly term except for non-payment by You or for violation of any of the terms and conditions of this Contract.

**In South Carolina:** Complaints or questions about this Program may be directed to the South Carolina Department of Insurance, P.O. Box 100105, Columbia, South Carolina 29202-3105, telephone number 1-800-768-3467.

**In Tennessee:** This Contract is automatically extended while a Designated Wireless Device is being replaced.

**In Texas:** If You purchased this Contract in Texas, unresolved complaints concerning a provider or questions concerning the registration of a service contract provider may be addressed to the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711.

**In Washington:** If We fail to act on Your claim, You may contact The Continental Insurance Company directly, at any time, at 1-800-831-4262. You are not required to wait sixty (60) days before filing a claim directly with The Continental Insurance Company.

**In Wisconsin:** This Contract is subject to limited regulation by the Office of the Commissioner of Insurance of the State of Wisconsin. We will provide at least 60 days written notice to You if We change the monthly charge for the Plan, the administration of the Plan, or these terms and conditions. We will not deny Your claim solely because You did not obtain pre-authorization if We are not prejudiced by Your failure to notify Us.

**In Wyoming:** If we change the Terms and Conditions of this Plan, we will provide at least thirty (30) days written notice to you, at the last address listed in our records, prior to the date the change takes effect. The written notice will include an endorsement to this Plan or a complete amended Plan, which should be kept in your records. If we cancel this Plan, we will mail you, at your last address listed in our records, written notice at least ten (10) days prior to the effective date of cancellation. Such notice shall include the effective date of cancellation and the reason for cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the Plan fee, a material misrepresentation by you to us or Embarq, or a substantial breach of duties by you relating to the Embarq service or its use. The Dispute Resolution provision in this Contract is replaced with the following: All disagreements and disputes between You and Asurion or Embarq, of every kind, if not resolved by negotiations, shall be resolved by individual arbitration pursuant to the Wyoming Uniform Arbitration Act.