

**Authorized
National Master Dealer**

**PCS Wireless
Your #1 Mobile Phone Source
Florham Park, NJ 07932**

Dear Prospective BSR Partner,

The purpose of this letter and package is to outline the BSR Program in somewhat simple detail for your final review.

As today's market is rapidly changing, new growth is due predominately to Unlimited Prepaid Providers, such as Boost Mobile, making this proposal both attractive and timely.

Boost Mobile is now looking to differentiate themselves again with the next level of Exclusive Wireless Dealer which is now formally referred to as **BSR (Boost Select Retailer)**.

As part of the Sprint Family of Products, Boost has exciting and dynamic things in store for 2010, which make the BSR Initiative an even more attractive value proposition for the dealer.

Please see the enclosed documents for your review and comments:

1. BSR Program Details (**Requirements, Benefits and Application Process**)
2. BSR Submission Cover Sheet (**Checklist to ENSURE all Required Info and Documents are complete for submission to PCS**)
3. Micro Telecom Point of Sale Management Software Program (**The PCS Triple Play Dealer Technology Partnership**)
4. Furniture/Fixtures and Location Build Out Images (**Modified based on individual Stores needs/requirements**)
5. BSR Preliminary Contract (**Company Information and Signatures required on Pages 1 and 12 ONLY**)

With more than 17 years in the Mobile Phone Business, PCS Wireless looks forward to working more closely with your Company and its Staff.

PCS Wireless is a Customer Service Driven Organization, so please let us know what we can do as a Team to improve your Customer Experience.

We look forward to working with you on this exciting initiative.

Respectfully submitted,

Jason Cohen
National Project Manager, BSR Program

PCS Wireless - Corporate
11 Vreeland Road
Florham Park, NJ USA 07932
+1 973.805.7400 Tel
www.pcsw.com



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BSR Requirements

1. Dealer agrees to sell **ONLY >**
 - a. Boost, Sprint, Nextel Family Products
 - b. Accessories
 - c. GSM Mobile Phones (Without Service / SIM FREE / Unlocked)
2. All Boost Mobile Handsets, Starter Kits, and RTR will be routed through PCS Wireless
3. High Speed Internet Access with Static IP
4. Active Boost Mobile Sales Portal to be used for ALL Activations
5. MINIMUM of 75 Activations per Month, per Location
6. Dedicated Boost Mobile Exterior Store Signage
7. Minimum 50% of Store Interior dedicated to Boost Mobile Sales and Branding

Dealer Benefits

1. Priority Product Allocation on Boost Mobile Handsets
2. FREE Ground Shipping (Orders of 20+ Units)
3. NET Payment Terms (Pending PCS Finance Dept. Approval)
4. Exterior Signage/Channel Lettering Program
5. Micro Telecom Point of Sale Software
6. Interior Furniture/Fixtures Allowance
7. 10% Commission on ALL RTR (\$50.00 and up)
8. Residual Income Program

**LONG TERM PARTNERSHIPS.
ADDITIONAL REVENUE STREAMS.
INCREASED PROFITABILITY.**

Customer Tenure	Residual Payout PER LINE
0-6 months	\$1.00
7-12 months	\$1.25
13+	\$1.50

RESIDUAL PAYMENT PROJECTIONS

Monthly Activations	YEAR 1	YEAR 2	YEAR 3	3 YEAR Total
75	\$ 6,525.00	\$ 10,440.00	\$ 16,704.00	\$ 33,669.00
150	\$ 13,590.00	\$ 21,744.00	\$ 34,790.40	\$ 70,124.40
300	\$ 27,180.00	\$ 43,488.00	\$ 69,580.80	\$ 140,248.80

Application Process for BSR Eligibility

1. Confirm Dealer Eligibility
 - a. Overall Store Appearance and Location (Best in Class Criteria/Distance Requirement)
 - b. Compliance with Minimum Monthly Activation Requirements (Sales Portal Active with Static IP)
2. Complete Proper Documentation and send to newapps@pcsw.com or fax to +1 (973) 301-0975
 - a. PCS New Customer Application (Signed and accompanied by State Certificate of Resale)
 - b. BSR Preliminary Agreement (Company Information and Signatures required on Pages 1 and 12 ONLY)
3. Confirm Appointment with Boost Mobile Territory Manager/PCS Account Manager
 - a. Store Visit BY Boost Mobile TR
 - b. Location Approval via email to PCS
 - c. Final BSR Contract with Signatures to bsr@pcsw.com or fax to +1 (973) 301-0975

Fax to: +1 (973) 301-0975

OR

email to: bsr@pcswww.com



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BSR SUBMISSION COVER SHEET

DATE: ____/____/____



ACCOUNT MGR: _____

ACCOUNT NAME: _____

CONTACT NAME: _____ email: _____

OFC#: _____

MOBILE# () ____-____



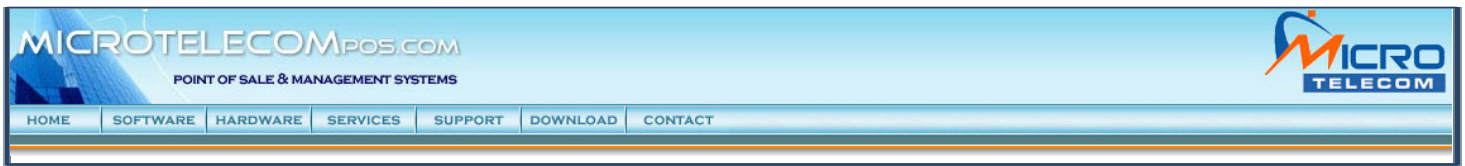
SALES PORTAL ID: _____

STATIC IP ADDRESS: _____._____._____._____

CHECKLIST

1. COVER SHEET COMPLETED ABOVE (REQUIRED) ☐
2. PAGES **1** AND **12** COMPLETED OF THE BSR APPLICATION (REQUIRED) ☐
3. PCS NEW CLIENT APPLICATION (IF NOT CURRENTLY A PCS CUSTOMER) ☐
4. TWO (2) .JPG PHOTOS OF STORE (IF NOT CURRENTLY BOOST APPROVED <BAR>) ☐





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www.pcswww.com



REAL TIME, SIMPLE REPORTING FOR DEALERS

In Partnership with the Premier Provider of Wireless Dealer POS Software, PCS Wireless offers our BSR's the ability to have an integrated Point of Sale Solution for all of their Wireless Retail Product Sales.

Since 1996, Micro Telecom has led the industry with Point of Sale (POS) Software for Wireless Dealers and today offers the most Complete and Integrated Solution currently available in the Marketplace.

- Point of Sale Management**
 - Sales/RMA 
 - End of Day / Closing Procedure
 - AP/AR/Expenses
- Payspot**
 - Integrated and Secure 
 - Simplified Reconciliation 
- Integrated Credit Card Merchant Services**
 - Fraud Control
 - Integrated Reconciliation
- Auto Receipt of Goods via EDI**
 - SKU and IMEI's
- Direct BSR Link** 
 - Account Balance
 - Order History
 - BSR Commission Statement
 - Spiff and Price Protection Reporting
- Reorder / Stock Replenishment via MT**
 - Order Entry by BSR
 - Received and Processed by PCS
 - Complete Visibility by BSR/PCS
- BSR/PCS/MT Integrated Reporting**
 - Sales and Activation
 - Price Protection / Spiff



GET ORGANIZED AND RUN A MORE EFFICIENT LOCATION TODAY !

MANAGE AND SAFEGUARD YOUR DATA.

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HORIZONTAL SIGN



RETAIL CONCEPT



THIS PAGE MUST BE COMPLETED TO APPLY FOR UPGRADE TO BSR STATUS

* PAGES 1 AND 12 ARE REQUIRED FOR PROCESSING *

**BOOST MOBILE RETAILER ACKNOWLEDGMENT
TO PARTICIPATE IN BOOST MOBILE SELECT RETAILER (BSR) PROGRAM**

Effective Date: August 1, 2009

Boost Select Retailer ("Location"):

Name: _____

Address: _____

City: _____

State: _____ Zip: _____

Lease Expiration Date: _____

Exclusive Master Agent:

SFID #: _____

Boost Mobile ("Boost" or "Boost Mobile"), on behalf of it and its affiliates, has authorized _____ **[insert name of Boost Select Retailer]** ("BSR"), to participate in the Boost Mobile Select Retailer Program ("Program") with _____ **[insert name of Boost Master Agent]** as the distributor ("Master Agent") of record for the BSR location. The BSR represents and warrants that nothing contained in this Agreement will conflict with or result in the breach of any other agreement or contract to which BSR is a party. Boost does not authorize the sale of Products to any BSR who is subject to such contractual or other obligations, restrictions or limitations.

This Acknowledgement sets forth requirements for BSR to participate in the Program, BSR agrees as following requirements:

1. Relationship:

- (i) **Exclusivity.** BSR agrees to only sell, promote or otherwise endorse wireless products and service plans offered by Boost, Sprint Nextel or an approved affiliate of Sprint Nextel. Wireless products and service plans means any product and/or service offering that provides a wireless calling solution regardless of technology, duration of time (daily, monthly, annual, etc.) and payment method (prepaid or postpaid).
- (ii) **Master Agent Exclusivity.** BSR agrees to only source Boost Mobile products from Master Agent, and no other distributors or master agents. Products are inclusive of handsets, and Boost replenishment solutions such as real time replenishment (RTR) and other Re-Boost products. Changes to the chosen master agent will result in termination of BSR's participation in the Boost Mobile Select Retailer Program (the "Program"), unless approved by Boost in writing.
- (iii) **No Exclusivity by Boost Relationship.** Boost may offer third parties exclusive rights with respect to certain territories or certain customer categories. Boost may also solicit and subscribe Customers using its own sales force or other authorized representatives. Boost will determine the number and type of authorized representatives.
- (iv) **No Franchise Relationship.** BSR understands, acknowledges and expressly agrees that nothing contained in this consent or arising out of or relating to the relationship between it and Boost is intended or should be construed to create any relationship of franchisee and franchiser between them. Neither Boost nor BSR shall make any express or implied agreements, guarantees or representations, or incur any indebtedness or obligations, in the name of or on behalf of the other. BSR further agrees that it will not execute Franchise Agreements (as a franchiser), or any other form of agreement that may be construed to create a franchise relationship.

2. Term of the Consent/Performance Requirements

- (i) Boost or BSR may terminate BSR's participation in the Program upon 30 days written notice to the other party for any reason or no reason.
- (ii) Performance Requirements. Each BSR location is required to activate at least 75 New Customers each month via the Boost Sales Portal.
- (iii) BSR agrees not to change master agents unless approved by Boost in writing.
- (iv) BSR may select or the Boost will assign a new exclusive master agent if Master Agent ceases to operate as an Authorized Boost Mobile Master Agent.

3. ***No Sub-dealers/Limitations on Subcontractors/BSR Responsibility for Actions.***

- (i) Sub-dealers. BSR may not use third parties to perform sales or sales support activity (including order fulfillment service providers) under this Acknowledgement. Only the approved BSR location identified on the consent form is authorized to operate as a BSR location and process activations via the unique Sales Portal login provided by Boost.
- (ii) 1099 Employees. For purposes of clarification, a sub-dealer or subcontractor does not include 1099 employees that identify themselves as a BSR employee and work from the approved BSR location. 1099 employees will be treated as BSR employees for purposes of this Agreement. Any third party not qualifying as a 1099 Employee as defined above, will be considered a sub-dealer or subcontractor.
- (iii) Responsible Party. The acts or omissions of BSR and anyone with which it is associated (such as its employees, representatives, affiliates, agents, contractors, and their employees) will be considered the acts or omissions of BSR under this consent to participate in the BSR program.

4. ***Merchandising Requirements/Trademarks:***

- (i) Exterior Requirements. BSR must install a Boost Mobile Illuminated Sign ("Signage") with Boost's logo on BSR's exterior storefront or an agreed upon alternative sign.
 - (a) BSR acknowledges that if Signage was supplied by Boost at the Location the Signage remains the property of Boost and Boost reserves the right to remove, revise, or reposition the Signage at any time.
 - (b) BSR agrees to notify Boost Mobile via email at salesoperations@boostmobile.com at least fifteen business days prior to any expiration or termination of Retailer's lease or eviction of BSR so Boost can make arrangements to retrieve the Signage and other fixtures. Boost will handle the relocation or removal in a timely manner. BSR's failure to provide notice may result in Boost's loss of the Signage and other fixtures. BSR will be responsible for the damages incurred due to said loss as a result of BSR's failure to provide notice to Boost.
 - (c) BSR acknowledges that the Signage must remain in place at the Location so long as location is an authorized retailer of Boost Products and Services via an authorized Boost Master Agent. Boost retains the right to enforce the removal of the Signage upon the expiration or termination of BSR distributing Boost Products and Services, upon ten (10) days notice to BSR. Boost retains the right, in its sole discretion, to select additional Program participants and store locations.
 - (d) BSR is responsible for all State and/or Local government permissions, approvals and/or permits, and will obtain the same necessary for Signage installation. Installation of the Signage shall not imply, infer or appear that the Location is a Boost Mobile owned and operated store. Accordingly, BRS shall have its own signage on the exterior of the building in addition to the Boost logoed Signage.
 - (e) BSR is responsible for damage and risk of loss to the Signage once installed. BSR will obtain sufficient insurance to replace or repair the Signage and any other Boost fixtures if lost or damaged. BSR will defend and indemnify Boost against any claims or damages resulting from (1) claims by Retailer's employees or any other person for bodily injury or damage to property resulting from the acts or omissions of Retailer, (2) Retailer's employees under workers' compensation or similar acts; and (3) any breach by Retailer of this agreement.

- (ii) Interior Requirements. BSR agrees to devote a minimum of 50% of in-store real-estate exclusively to Boost Mobile products and services. The in-store design shall be directed and approved by Boost to BSR at Boost's sole discretion and may include, without limitation, the following:
 - (a) Point of purchase furniture and interior fixtures
 - (b) Signage
 - (c) Wall section for paint and/or build-out
 - (d) Floor section immediately adjacent to the wall section
 - (e) Items to be included on the wall section, such as color and imagery
 - (f) other collateral items to be determined by Boost from time to time
- (iii) BSR acknowledges that Boost is not responsible for the installation of merchandising materials including but not limited to point of purchase furniture, fixtures, paint, lighting, and flooring.
- (iv) Point of Purchase Materials. All point of purchase materials and products (cell phones, Re-Boost cards, accessories) displayed in-store must be approved and/or obtained by BSR through its Master Agent. If Boost provides the BSR with point of sale merchandising, promotional or other material, such material;
 - (a) is and remains the sole and exclusive property of Boost and must be returned upon request;
 - (b) may only be used by the BSR; and
 - (c) must be prominently displayed in accordance with Boost's directions.
- (v) Advertising Guidelines. Any sales literature, advertising or other materials employed in connection with the sale of Products, which uses Boost Trademarks, or copyright or other form of intellectual property owned by Boost Mobile, must be submitted to Boost Mobile, for written approval, which may be conditioned or withheld for any reason.
- (vi) Approval. Boost, in its sole discretion shall approve the final exterior and interior merchandising for participation in this BSR program. The BSR location has 90 days to make adjustments as communicated by Boost Mobile and its representatives.
- (vii) Trademarks, Copyright: BSR will not acquire any right to goodwill, trademark, service mark, copyright, or other form of intellectual or other property interest of Boost. BSR shall use Boost Mobile trademarks, service marks, logos or copyrighted materials in any manner in connection with this Agreement or the sale of the Products, except (i) during the Term of this Agreement BSR may identify itself as a seller of the Products provided Boost has given prior written approval to all such identifications, and (ii) as set forth in Section 4.d above. BSR acknowledges and agrees, that the name "Sprint Nextel," the name of any of Boost's affiliates (or the registered fictitious name of such) and all other names, marks and logos used by Boost are service marks and trademarks belonging solely to Boost and/or its affiliates, and that the name "Boost Mobile," the name of any of Boost Mobile's affiliates (or the registered fictitious name of such) and all other names, marks and logos used by Boost Mobile are service marks and trademarks (collectively "Boost Trademarks") belong solely to Boost Mobile and/or its affiliates. Boost Trademarks will not be used without the prior written consent of Boost Mobile. BSR agrees that it will use Boost Mobile's trademarks, service marks, and logotypes only in the manner and to the extent specifically as licensed pursuant to this Agreement or as otherwise authorized in writing by Boost Mobile, respectively. BSR further agrees that an unauthorized use of any Boost Mobile trademark, service mark, or logotype, including but not limited to use as or within a domain name, during the Term of or after the expiration or the earlier termination of this Agreement shall constitute an incurable default causing irreparable harm to Boost Mobile, as applicable, subject to injunctive relief. Boost Mobile at all times has the right to alter or change the names, logos and/or other trademarks and service marks related to its company, products and/or services, or otherwise re-brand some or all of the rights and benefits herein granted or reserved, in accordance with its business needs.

5. ***Residual Compensation.***

- (i) Boost has reached an agreement, or will reach an agreement, with the Master Agent that Master Agent will pass residual compensation to BSR locations in the amount of \$1.00 per month for every active

subscriber with a tenure of 0 to 6 months, \$1.25 per month for every active subscriber with a tenure of 7 to 12 months, and \$1.50 per month for every active subscriber with a tenure of 13 months or more that uses \$35 or more of Boost Mobile services within that month (Service Revenue)

- (a) Residual Compensation will be based only on handsets paired with the IMEI and SIM shipped with the handset via eligible Sales Portal activations. All other activations will not generate additional compensation.
 - (b) Static IP Address Requirement. Each BSR location must have Static Internet Protocol Address "IP Address" on file with Boost Mobile and only Sales Portal activations done with the submitted IP address will qualify for the residual compensation program.
 - (c) BSR location must achieve 75 activations per calendar month to qualify for residual compensation
 - (d) No residual compensation will be paid for activations, sales portal or otherwise, on activations done by the BSR location on equipment not purchased from the assigned master agent of the BSR location. BSR acknowledges and agrees that Boost has no liability if the BSR is unable to access the Sales Portal and chooses to process the activation by another means made available by Boost.
- (ii) Boost Mobile has final say in all disputes and interpretations of the business rules for the Boost Mobile Residual Compensation and reserves the right to change, modify or discontinue the residual compensation program at anytime and from time to time.
 - (iii) Compensation will cease upon termination of BSR's participation in the Program.
 - (iv) BSR acknowledges and agrees that Boost has no responsibility or liability if Master Agent fails to pass residual compensation specified in this Section 5 (or any other compensation) to BSR. BSR is responsible for executing any agreement it deems necessary with Master Agent to address any compensation issues between BSR and the Master Agent.

6. **Demo Line Program**

- (i) BSR locations may receive one Boost Demo phone for the store subject to the demo line policy as amended from time to time by Boost.
- (a) The unlimited monthly replenishment rate of \$50.00 will be added to the demo phone each month along with \$15.00 per month for value added services use while BSR participates in the Program.
- (b) BSR may be eligible for an upgrade/replacement Boost Demo Phone once a year while participating in the program, subject to Boost approval.
- (c) BSR must immediately notify Boost in the event the demo phone is damaged, lost or stolen.
- (d) BSR must ensure that the demo phone is used solely for demonstration purposes and in compliance with the standard terms and conditions which are located at www.boostmobile.com.

7. **Equipment.**

- (i) SRP: Boost's suggested retail price ("SRP" or "MSRP") for the Products is not binding. Master Agent and BSR are free to set the actual amount for which the Products are sold to Subscribers.
- (ii) Inventory. BSR location agrees to carry the full range of Boost products and services within the store location and have available 90% of the product line up available at all times.
- (iii) Delivery: Products will be delivered to BSR by the Master Agent. Boost does not warrant or represent that delivery will be made with any frequency or time period for the requested handsets. Boost Mobile will not have any liability for
 - (a) failure to deliver Products within a specified time period; or
 - (b) unavailability and/or delays in delivery and/or discontinuation of Products, or for the cancellation by the manufacturer of any orders of Products.

- (iv) Stock Returns: Boost will only accept the return of Products in accordance with the Boost's Return Policy, which may change at any time or from time to time in its discretion with notice to the master agent.
- (v) Warranties: The Warranty and Repair Guidelines provided by the manufacturer of the Products will control servicing and repairs of Products under warranty. Manufacturers' warranties may change from time to time. Warranty terms will be contained with the phone or other Product to which the warranty is applicable. BOOST MOBILE MAKES NO WARRANTIES OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED, TO MASTER AGENT, ANY BRS, OR TO ANY OTHER PURCHASER OR END-USER OF THE PRODUCTS. BOOST MOBILE SPECIFICALLY MAKES NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR WARRANTS THE RESULTS OF PRODUCT USAGE, THAT A PRODUCT WILL OPERATE UNINTERRUPTED OR ERROR FREE, OR THAT A PRODUCT'S FUNCTIONALITY WILL MEET ANY USER REQUIREMENTS. DISTRIBUTOR HEREBY WAIVES, AND SHALL CAUSE ITS RETAILERS TO WAIVE, ALL OTHER WARRANTIES, GUARANTEES, CONDITIONS OR LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE. BSR'S SOLE AND EXCLUSIVE REMEDY RELATING TO THIS ACKNOWLEDGEMENT AND/OR PRODUCTS SHALL BE THE REMEDY, IF ANY, AFFORDED BY THE MANUFACTURER OF SUCH PRODUCTS.

8. *Inspection; License to Enter:*

- (i) The BSR will grant Boost Mobile the right, on reasonable notice, to enter any of the facilities, or other premises of the BSR (and/or at any time thereafter) upon the termination of BSR's participation under the Program or participation as a retailer of Boost Mobile Products, to repossess and remove all Products for which title remains with Boost, and/or which are otherwise required to be delivered or returned to Boost. Boost Mobile shall also have the right at all mutually agreed upon times during business hours to inspect BSR location and facilities, to inspect BSR's Product inventory, to inspect BSR's books and records as they pertain to performance of the obligations under the Program, and to make copies and extracts from them. BSR will maintain, all such books and records for the minimum time required by law but in no event less than twenty-four (24) months after their creation.

9. *Insurance.*

- (i) BSR agrees to maintain at its own expense, the following insurance: (i) Commercial General Liability insurance in an amount not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and \$1,000,000 personal and advertising injury; (ii) Workers' Compensation in statutory amounts and Employers Liability insurance of not less than \$1,000,000 bodily injury by each accident, \$1,000,000 bodily injury by each disease, each employee, each incident and \$1,000,000 bodily injury by disease policy limit, each incident; (iii) fire, theft, and extended coverage with respect to Products in Distributor's possession in an amount not less than the replacement value of such Products; (iv) Auto Liability covering all vehicles used in connection with this Agreement with a combined single limit of not less than \$1,000,000; and (v) umbrella insurance of not less than \$4,000,000. All insurance policies must be with companies with an A.M. Best's rating of not less than A-, VII and licensed to do business in all applicable states. Liability policies will name Boost Mobile as an additional insured and contain a waiver of subrogation clause waiving all rights of subrogation it may have under such policies as related to Boost Mobile. Each insurance policy will contain a clause requiring the insurer to give Boost thirty (30) days prior written notice of any alteration in the terms of such policy or cancellation (ten (10) days for non-payment of premium). BSR will promptly provide either an electronic Memorandum of Insurance or a Certificate of Insurance for all required coverage within five (5) days of signing this Agreement and within fifteen (15) days of when any required policy is renewed or replaced to the address listed.

10. *Indemnity:*

- (i) BSR will indemnify, defend and hold harmless Boost Mobile, and each of their respective employees, representatives, affiliates, dealers, agents and assignees against any claims brought by third parties for liability, losses, damages and/or expenses suffered or incurred by Boost Mobile:
 - (a) any breach of the provisions of this Acknowledgement;

- (b) any fraudulent, unauthorized use or other misuse of Products (including theft) by BSR; or
- (c) any other act, omission or misrepresentation by BSR relating to the sale of Products.
- (ii) Moreover, the indemnification obligations described in the above shall equally apply to all such matters caused by or attributable to BSR's respective employees, representatives, affiliates, dealers, agents, assignees, franchisees or third parties (whether or not permitted).
- (iii) For purposes of this indemnification, "claims" means and includes all claims complaints, proceedings, investigations or actions, brought by a third party, including any government agency or entity, arising from or resulting from activities pursuant to this Agreement, including advertising activities, business conducted or sales made by master agent and/or BSR, including actual compensatory, incidental and consequential damages, taxes, and out-of-pocket costs (including those incurred in the defense of any claim such as accountants, attorneys and expert witness fees, costs of investigation and proof of facts, court costs, other litigation expenses, travel and living expenses). The persons and entities entitled to indemnification hereunder shall have the right to defend any such claim against them without limiting their rights to indemnification hereunder. This indemnity shall survive expiration or earlier termination of this Acknowledgement.

11. *Exclusion of Liability:*

- (i) NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL BOOST MOBILE BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST PROFITS OR OTHER MONETARY LOSS, ARISING OUT OF BOOST MOBILE'S PERFORMANCE OR FAILURE TO PERFORM, WHETHER OR NOT ANY SUCH MATTERS OR CAUSES ARE WITHIN BOOST MOBILE'S CONTROL OR DUE TO NEGLIGENCE OR OTHER FAULT ON THE PART OF BOOST MOBILE, OR THEIR RESPECTIVE AGENTS, AFFILIATES, EMPLOYEES OR OTHER REPRESENTATIVES, OR WHETHER RESULTING FROM THE FAILURE IN THE OPERATION OF OR OTHER DEFECT IN ANY PRODUCT DISTRIBUTED OR SOLD HEREUNDER.

12. *Responsibilities of the BSR:*

- (i) Conduct any and all activities in connection with this Agreement in compliance with all applicable laws, regulations, standards and codes applicable to the BSR's business, and cooperate with any requests from Boost Mobile regarding any governmental inquiries and/or investigation requests;
- (ii) comply with Boost Mobile's respective privacy policies and privacy statements as provided to the Master Agent and BSR from time to time;
- (iii) comply with all written Boost Mobile policies and guidelines with respect to the Program or with respect to the BSR as Boost may implement or amend from time to time, including the Boost Mobile 5 Star Store Grading Policy (as amended from time to time), any operational requirements and instructions in relation to the Products or their sale warranty handling processes for the Products, any written point of sale process communicated to BSR by Boost Mobile;
- (iv) sell each Product in its original packaging and in good condition, promptly assist consumers and advise Boost Mobile immediately after BSR becomes aware of any defective Products, and ensure that the Products are sold by BSR only at Authorized Locations within the Territory, unless otherwise agreed in writing;
- (v) maintain customer satisfaction performance standards established by Boost with Master Agent's participation;
- (vi) provide to consumers the Products, the current materials regarding the PIN delivery and activation process and pricing plans for Services,
- (vii) and attend any training reasonably required by Boost Mobile in relation to the Products;
- (viii) work together with Boost Mobile in developing and implementing marketing and promotional activities;

- (ix) comply with all point of sale technology and associated processes, for proper inventory, security, issuance, recordation and reporting of Electronic PIN Transactions, as established by Boost and the PIN Service Provider (which may be Master Agent if it has entered into a PIN Services Agreement) to comply with the requirements of the PIN Services Agreement, and ensure that mechanisms/solutions acceptable to Boost Mobile are in place for any PIN transactions between BSR and Boost or any PIN Service Provider and bear any costs related to such transactions not payable by a PIN Service Provider;
 - (x) with respect to Boost's System, Service, and Subscribers, in the case of BSR, represent itself as an independent contractor that is an authorized retailer selling Boost Mobile Services and Boost Mobile Product;
 - (xi) use best efforts to meet any targets for a calendar quarter with respect to Eligible New Subscriber Activations, or other matters, that may be established Boost for BSR on or before the seventh (7th) day of such calendar quarter, which targets may vary by Territory or Authorized Location outside the Territory or be based on the aggregate results for more than one Territory of BSR and/or Authorized Location outside the Territory;
 - (xii) use best efforts to meet the terms of any performance plan established by Boost following BSR's failure to meet monthly sales target;
 - (xiii) notify Boost of any parties known by BSR to be conducting fraudulent activities concerning Boost Mobile Products and Services;
 - (xiv) Upon Boost's request, provide to Boost Mobile a duly completed report (sales log), of all Products sold by BSR to consumers, to include the following information: Sales date, applicable SIM/ESN/MEID/IMEI/MSN detail, consumer name, address, city, state, and zip.
13. ***Prohibitions on the BSR: The BSR must not (and must ensure that each of its representatives and employees do not):***
- (i) appoint any third party to sell the Products, whether by agency or otherwise;
 - (ii) make any representations or give any warranties in relation to the Products, other than those given by Boost Mobile to the Distributor and BSR from time to time;
 - (iii) purchase or otherwise acquire Products, from anyone other than the Master Agent of record as selected in this agreement;
 - (iv) unlock (i.e. alter in any way) any Product that is a handset;
 - (v) separate components of the Products for sale, or attempt to sell separate components of the Products, including, without limitation, any of the contents included in the packaging of a Product, such as any debit card or other stored value card;
 - (vi) sell any Products outside the Territory or at any locations that are not Authorized Locations.
 - (vii) sell Products to anyone other than retail consumers, Subscribers and/or BSR only, for the subsequent sale by such BSR solely to retail consumers or Subscribers;
 - (viii) distribute any Product in a manner that is inconsistent with any conditions on allocation and/or distribution of such Product specified by Boost;
 - (ix) represent itself in any manner (e.g., through advertising) to the public as Boost Mobile, or any of Boost's other affiliates;
 - (x) purchase PINs from any source during any period during this Agreement when Boost has advised Master Agent or BSR not to make such PIN purchases;
 - (xi) engage in investment purchases of PINs (i.e. purchases in excess of levels consistent with typical practice of the BSR in advance of a margin change on purchases of PINs);
 - (xii) appoint any third party processor or payments solution provider to offer and/or process payments for Boost Mobile's products and services;

- (xiii) change the Boost Mobile Service Offer (e.g. the rates charged by Boost Mobile and the terms and conditions under which Boost Mobile provides communications services to customers);
- (xiv) grant any discounts or make any adjustments to the rates;
- (xv) misrepresent -- either affirmatively or by omission -- the Service Offer or any terms and conditions of Boost Services; or
- (xvi) Charge fees include payment fees and convenience fees with the exception of those approved by Boost in writing in advance (e.g. the UNLTD service offering);
- (xvii) impose on Customers any activation, re-activation or other non-approved fee, including without limitation charging the customer a fee in relation to accessing replenishment products.

14. Customer Experience Expectations. BSR will:

- (i) Cleanliness. Store will be tidy and clean at all times, including but not limited to displays, collateral, floors, windows, counters, and equipment.
- (ii) Facilities.
 - (a) Demographic Appropriate. Store should provide additional facilities or equipment that would be appropriate for their demographic, such as stores targeting families should be inclusive by providing family-friendly items in the store like safe signage, play areas, and balloons.
 - (b) Service Appropriate. If Boost approves BSR for service and repair to be offered at the location, the BSR will provide some multi-use space where customers with unresolved problems can be handled away from the main customer flow.
- (iii) Customer Wait Time. High volume stores as determined by Boost will install a Boost approved queuing system to ensure customers are treated equally for service.
- (iv) Seating. Comfortable seating areas should be provided for customers.
- (v) Background Music. For any background music, choice and audio levels should be appropriate to the demographics of the customer base for the location as determined by Boost.
- (vi) Recycling. BSR location must have recycle phone box available for customers to dispose of old phones, batteries and accessories.
- (vii) No Smoking. BSR location will make every effort to maintain a smoke free facility in accordance with all local, state and federal requirements.
- (viii) Training. BSR agrees that staff will be fully trained on the Boost Mobile product offering and must ensure that all staff complete the online training programs offered via the Sales Portal. Further more, the BSR location will make available staff for onsite trainings as agreed upon with Boost Mobile field staff.
- (ix) Activations. BSR agrees to completely enter all customer information into the Sales Portal activation system and provide the customer all necessary information inclusive of the account PIN.
- (x) BSR location must adequately meet the following customer experience tactics and metrics:
 - (a) Provide clarity and simplicity in presenting and providing Boost products and services
 - (b) Offer customers choices, flexibility and convenience in selecting Boost products and services
 - (c) Make it easy to obtain Boost products, services and information
 - (d) Offer the Boost value proposition
 - (e) Provide reliable and dependable hours of operation
 - (f) Act with transparency and consistency in all interactions with customers
 - (g) Provide speedy consumer issue resolution

15. Termination: BSR's participation in the Program may be terminated

- (i) by Boost for its convenience, for any reason or no reason, upon thirty (30) days written notice to BSR.
- (ii) by Boost immediately, for cause, if the BSR commits any one or more of the following (“Events of Default”):
 - (a) does not pay any amount due by the due date owed to Boost;
 - (b) sells Products without authorization or from an unauthorized location (including Internet sales or solicitations of sales);
 - (c) makes a misrepresentation to Boost Mobile, a customer, a Subscriber, or a prospective customer or Subscriber;
 - (d) fails to comply with advertising guidelines;
 - (e) engages in fraudulent activity;
 - (f) misuses or modifies any Boost Trademarks without the prior written consent of Boost Mobile;
 - (g) breaches any other of its obligations under this Acknowledgement, and fails to remedy that breach within thirty (30) days of being notified to do so;
 - (h) ceases to operate its business in the ordinary course, elects to dissolve, dissolves, experiences insolvency, failure in business, commits an act of bankruptcy, receivership, makes a general assignment for the benefit of creditors, files or has filed against it any petition in bankruptcy or for relief under the provisions of the bankruptcy laws, or has an administrator, liquidator or manager appointed to it;
 - (i) fails to achieve performance standards for two consecutive calendar months or five months in any consecutive 12 month period as specified by Boost Mobile;
 - (j) BSR fails to comply with any civil and criminal laws, ordinances, rules, regulations, or orders of public authorities;
 - (k) BSR materially breaches or defaults on any other distribution or similar agreement, including an AR Agreement to solicit sales of, or subscription agreements in connection with, Sprint Nextel products and services.
- (iii) **BSR Duties Upon Termination:** Upon termination of its participation under the Program, the BSR must:
 - (a) immediately pay all amounts due hereunder (if any) to Boost;
 - (b) cease using and promptly return to Boost all displays, fittings, point of sale material and information (including Trade Secrets) belonging to Boost Mobile;
 - (c) Immediately cease selling the Products, and representing the legal ability to do so, and cease all use or display of Boost Trademarks, except as may be approved by Boost in writing.

16. **Severability:** If any provision of this Acknowledgement is determined to be invalid or unenforceable, the provision will be construed more narrowly and equitably, sufficient to render it enforceable without the entire provision failing of its purpose, or if such construction is not feasible, then the provision will be severed from the remainder of this Acknowledgement, and in all circumstances the balance of this Acknowledgement remains enforceable.

17. **Boost Amendments:** Boost may amend the Program requirements at any time, and require that BSR execute a new Acknowledgement or a revision or amendment of this Acknowledgement at any time in its discretion.

18. **Confidentiality; Trade Secrets; Non-solicitation:**

- (i) BSR acknowledges that it and/or its employees both possess and will acquire confidential information belonging to Boost Mobile, concerning sales methods, services, business, credit, training, merchandising, and marketing techniques, and other Trade Secrets and proprietary business information.
- (ii) BSR agrees that the respective Trade Secrets of Boost Mobile have been developed through substantial expenditures of time, effort and money, constitute their valuable and unique property, making their

protection as herein set forth a necessary consideration of this Agreement. BSR specifically acknowledges that all Trade Secrets, whether reduced to writing, maintained on any form of electronic media, or maintained in the mind or memory of or any compilation prepared by or made available to BSR and/or any of its employees, derives independent economic value from not being readily known to or ascertainable by proper means by others who can obtain economic value from its disclosure or use, that reasonable efforts have been made by Boost Mobile to maintain the secrecy of the Trade Secrets, that their respective Trade Secrets are the sole property of Boost Mobile, and that any retention and use of such Trade Secrets by BSR or any of its employees shall constitute a misappropriation of such Trade Secrets.

- (iii) Except as strictly authorized solely in the course of performance of this Agreement, BSR will, and will cause its employees to, (i) keep in strict confidence, and not directly or indirectly disclose, furnish, disseminate, make available or use any Trade Secrets, including without limitation as to when or how BSR may have acquired such information; and (ii) not make any unauthorized copy or memoranda of any kind and/or on any media, of or relating to any Trade Secret, including without limitation customer and/or Subscriber lists, names and/or information.
 - (iv) BSR will implement and maintain, and cause its employees to implement and maintain, responsible procedures described from time to time by Boost Mobile to prevent unauthorized use and disclosure of Trade Secrets by BSR, and any employee, representative, affiliate, agent, contractor, franchisee, assignee or third party (whether or not permitted), and in the absence of such, shall protect said Trade Secrets as it would its own most valuable confidential information.
 - (v) BSR will not without Boost's prior written consent disclose any terms of this Acknowledgement to any third party,
 - (vi) BSR will not, and will not permit its employees to, solicit directly or indirectly any Subscriber on behalf of another wireless service provider or other person during its participation in the Program and for a period of one year after any termination of its Program participation.
 - (vii) BSR agrees BSR will not, and will not permit its employees to, solicit directly or indirectly any retailer or other distribution channel with whom Boost Mobile has a direct selling relationship, for the purpose of distributing Products for subsequent retail sale.
19. **Customer Privacy.** BSR will comply with all privacy requirements and obligations set forth in the Privacy Addendum to this Agreement, which may be amended from time to time.
20. **Assignment:** Boost may assign or transfer any or all of its rights, under this Acknowledgement to any successor, including, without limitation, any successor firm or entity in connection with a merger, consolidation, or sale of all or substantially all of its assets, stock or other equity interests with or to such firm or entity, or to any other firm or entity capable of performing its obligations hereunder, at any time or from time to time without notice to the BSR. Boost's use of Fulfillment Intermediaries shall not be deemed an assignment. Neither this Acknowledgement, nor any right or obligation of BSR may be assigned or transferred without Boost's prior written consent, which may be withheld in its sole discretion. Any purported transfer, assignment or encumbrance without such consent shall be void.
21. **Relationship of the parties:** BSR is an independent contractor and has no express or implied right or authority to assume or create any obligation on behalf of Boost, or represent that it has any right or authority to do so. The parties do not intend to create an agency, franchise, dealership, employment, partnership, landlord-tenant, or joint venture relationship, or any other relationship.
22. **Governing Law:** This Agreement is governed by the laws of the Commonwealth of Virginia, regardless of conflicts of law provisions.
23. **Entire Agreement; Conflicts:** This Acknowledgement, including its exhibits, constitutes the final and full understanding between the parties and supersedes all previous agreements, understandings, negotiations and promises, whether written or oral, between the parties with respect to its subject matter..
24. **Notices:** Any notice or other written communication required or permitted to be given shall be deemed given when personally delivered or delivered by reliable overnight carrier or three (3) business days after it has been mailed; shall be delivered by personal delivery, by certified mail, or by reliable overnight carrier; and shall be

addressed to Supplier d/b/a Nextel Communications at 2001 Edmund Halley Drive, Mail Stop A4-3, Reston, Virginia, 20191, Attn: Boost Counsel, Legal Department, with a copy to Boost Mobile, LLC at 8845 Irvine Center Drive, Suite 200, Irvine, California 92618 (Attn: Sales Operations), or BSR at the address set forth in the Letter on the front of this Agreement (or to which any of the foregoing has been changed in accordance with a notice sent or delivered pursuant hereto).

25. **Force Majeure:** Neither party shall be in breach of this Agreement solely due to causes beyond its control including fire, flood, earthquake, acts of God, acts of terrorism or of a public enemy, acts of the government in its sovereign or contractual capacity, epidemics, quarantine, strikes, lockouts, riots or other civil insurrection, freight embargoes, power failure, or failure of the U.S. postal system or other shipping providers, provided the foregoing shall not excuse or delay payment obligations.

26. **Dispute Resolution:** The provisions of the Dispute Resolution Addendum apply to this Acknowledgement.

27. **Additional Definitions**

In this document, the following definitions apply:

- (a) "Boost Mobile" means Boost Mobile LLC of 8845 Irvine Center Drive, Suite 200, Irvine, California, 92618;
- (b) "Boost Information" means any information relating to an existing or potential customer of Boost that BSR may collect or receive during its participation in the Program. This information may include without limitation the existing or potential customer's name, address, rate plan, handset type, telephone numbers, email addresses, credit card information, CPNI (Customer Proprietary Network Information as defined in Section 222 of the Federal Communications Act, 47 U.S.C. section 222) or any other information related to the quantity, technical configuration, type, destination, location, and use of a telecommunications service provided to the existing or potential customer, including information contained in bills provided to the existing or potential customer. Boost makes no representations or warranties about Boost Information;
- (c) "CPNI Rules" means the Federal Communications Commission's Customer Proprietary Network Information rules, implementing 47 U.S.C. § 222.
- (d) "Fulfillment Intermediaries" means the entity Boost utilizes to perform fulfillment functions ("Fulfillment Intermediaries") such as sales, service, distribution, shipping/delivery, invoicing, payment/collection, returns, Electronic Data Interchange functions and other operations, to which Distributor consents and which shall not be deemed an assignment.
- (e) "PIN Service Provider" or "POS Service Provider" or Technology Service Provider (TSP) means the entity that performs Electronic PIN Transactions and related services in order to activate PINs or deliver active PINs to the point of sale, in either case as necessary for Subscribers to access the Systems.
- (f) "PIN Services Agreement" means the written agreement between Boost and the PIN Service Provider to provide PIN Services.
- (g) "Privacy Laws" means all applicable federal, state and local laws, rules and regulations relating to customer privacy, marketing, data security or consumer protection, including, without limitation, (i) the requirements enumerated in the CPNI Rules, (ii) laws governing direct-marketing, such as the Telephone Consumer Protection Act and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the "CAN-Spam Act"), and (iii) the California Cybersecurity Law (SB 1386).
- (h) "Products" means the goods sold by Boost to Master Agent sold to Subscribers to utilize the Services;
- (i) "Services" means access to the Systems and all other services provided by Boost to the Subscribers.
- (j) "Subscribers" means those persons who will have access to the Services.
- (k) "Territory" means the geographic territory which Boost may unilaterally change where Master Agent is authorized to sell Boost Products and Services.
- (l) "Trade Secrets" means confidential information concerning the Services, equipment, sales methods, installation and maintenance techniques, sources or suppliers of materials, insurance, credit policies, advertising, promotion and marketing techniques, prices, and customer referral programs, including,

without limitation, Boost Mobile's unique selling, and servicing methods and business techniques, training, service and business manuals, promotional materials, training courses and other training and instructional materials, vendor and product information, customer and prospective Subscriber lists that Boost Mobile supplies to Distributor for marketing purposes, other Subscriber and prospective Subscriber information and other business information.

Agreed and accepted:

Signature: _____

Printed Name: _____

Title: _____

Date: _____

BSR FINAL

PRIVACY ADDENDUM

1. **Compliance with Law.** BSR will comply with all U.S. laws relating to the collection, use, access, maintenance and disclosure of Boost Information. To the extent BSR has access to CPNI under this Acknowledgement, BSR may use CPNI only for the purpose of marketing or providing the communications-related products and services similar to the products and services to which the customer already subscribes. BSR may not use, allow access to, or disclose CPNI to any other party, unless required to make such disclosure under force of law. BSR must have in place and maintain appropriate protections to ensure the ongoing confidentiality of customers' CPNI.

2. **Safeguards.** BSR is fully responsible for Boost Information. BSR will utilize administrative, physical, and technical safeguards that prevent the unauthorized collection, access, disclosure, and use of Boost Information. These Safeguards will:

- 2.1 assign random passwords and other access controls so that only employees, representatives, agents, contractors, and Subcontractors of BSR who have a business need to access or use Boost Information may access or use it;
- 2.2 encrypt Boost Information when not directly being used by an authorized person while on BSR's network and at all times while in course of transmission;
- 2.3 use appropriate firewalls, virus protection and other technical safeguards against intrusion upon, and harmful transmissions to, any network or facility on which Boost Information is stored;
- 2.4 grant access privileges to Boost Information only as needed by employees, representatives, agents, contractors and Subcontractors of BSR who have a business need to use that information, and prompt revocation of such privileges when no longer required; and
- 2.5 train employees and other persons with access to Boost Information in proper security practices and procedures.

3. **Notice of Security Breach.** BSR will promptly notify Boost of any facts known to BSR concerning any accidental or unauthorized access, disclosure or use, or accidental or unauthorized loss, damage or destruction of Boost Information by any current or former employee, representative, contractor, Subcontractor or agent of BSR or by any other person or third party. BSR will fully cooperate with Boost in the event of any accidental or unauthorized access, disclosure or use, or accidental or unauthorized loss, damage or destruction of Boost Information by any other person or third party, to limit the unauthorized access, disclosure or use, seek the return of any Boost Information, and assist in providing notice if requested by Boost.

4. **Disclosure of Boost Information.** BSR will not disclose Boost Information to any person unless Boost has given its prior written consent to the disclosure. Before disclosing Boost Information to any person, BSR must ensure that that person is bound by the same obligations as BSR under this Acknowledgement, including the obligation to protect Boost Information that also is classified as CPNI. In the event that BSR receives a request to disclose Boost Information through legal process, such as a private party subpoena or a subpoena, warrant or other process from a governmental authority, BSR will:

- 4.1 notify Boost as soon as practicable of the request so that Boost at its option may seek a protective order or take other action to prevent or limit such disclosure; and
- 4.2 cooperate with Boost's efforts to obtain a protective order or other reasonable assurance to preserve the confidentiality of the Boost Information.

5. **Return of Boost Information.** BSR will return, or at Boost's election, destroy (and certify the destruction in writing) all Boost Information upon the termination or expiration of this Acknowledgement, or earlier if requested to do so in writing by Boost.

6. Privacy Exhibit and Annual Certification. BSR will certify annually its continued compliance with all of the obligations in Boost's Privacy Policy, this Addendum and the related provisions in the Acknowledgement.

7. Audits and Corrective Action Plans. In addition to any other rights of Boost under this Acknowledgement, if any audit under this Acknowledgement identifies a customer privacy related failure in any of BSR's privacy or confidentiality obligations, BSR will promptly develop a corrective action plan in cooperation with Boost. This plan is subject to Boost's approval. BSR will implement this plan at its sole expense, if

7.1 any audit shows that BSR has failed to perform any of its obligations under this Section; or

7.2 Boost notifies BSR in writing of its breach of its privacy obligations under this Acknowledgement.

8. Miscellaneous. The acts or omissions of BSR and anyone with which it is associated (like its employees, representatives, affiliates, agents, contractors, Subcontractors, and their employees) are BSR's acts or omissions. The rights and obligations in this Addendum and any other provision in the Acknowledgement that is reasonably necessary to enforce them, will survive the termination or expiration of this Acknowledgement for any reason. The provisions of this Addendum control if they conflict with any other provision in the Acknowledgement. Because a breach of any Boost Information provision may result in irreparable harm to Boost, for which monetary damages may not provide a sufficient remedy, Boost may seek both monetary damages and equitable relief.

BSR FINALLY

DISPUTE RESOLUTION ADDENDUM

- 1 Dispute Resolution.** All Disputes under this Acknowledgement are subject to the following dispute resolution process. Only a Senior Representative (ie. a Vice President or Owner/Proprietor of the BSR or person holding a position of equivalent or greater authority within BSR's organization, or a Director as to Boost) may initiate, respond to, negotiate, resolve or otherwise direct the resolution of a Dispute.

1.1 Negotiation. A Senior Representatives will first attempt to negotiate a resolution to the Dispute.

- (A) *Notice of the Dispute.* The disputing party initiates negotiations by providing written notice to the other party, explaining the subject of the Dispute and the relief requested.
- (B) *Procedures.* The party receiving a notice of Dispute must respond in writing within 30 calendar days with a statement of its position on, and recommended resolution of, the Dispute. If the Dispute is not resolved by this exchange of information, the Senior Representatives of each party will meet (either by phone, or, if agreed to, in person,) at a mutually agreeable time and place within 60 calendar days of the date of the initial notice and thereafter as often as they reasonably deem necessary in order to exchange relevant information and perspectives and to attempt to resolve the Dispute.
- (C) *Participants in the Negotiations.* Senior Representatives will negotiate the Dispute. If necessary, non-Senior Representatives of the BSR or Boost may, upon the request and at the direction of a Senior Representative, participate in the resolution of a Dispute.
- (D) *Failure of Negotiation.* If the Dispute is not resolved within 90 calendar days of the date of the disputing party's initial notice, or if the Senior Representatives fail to meet within 60 calendar days of the date of the initial notice, either party may initiate non-binding mediation of the Dispute as specified below.

1.2 Mediation. If a Dispute is not resolved through negotiation in accordance with this Addendum, either party may submit the Dispute for mediation under the Commercial Mediation Procedures and Rules of the American Arbitration Association (AAA).

(A) *Conduct of Mediation.*

- (1) *Governing Rules.* The Commercial Mediation Procedures and Rules of the American Arbitration Association ("AAA") will govern the selection of a mediator and the conduct of the mediation, subject to this Addendum.
- (2) *Mediation Briefs.* Mediation briefs or statements not to exceed 15 pages will be submitted to the Mediator.
- (3) *Additional Rules for Mediation.* Unless the parties both agree otherwise, the mediation:
 - (a) will last no longer than one business day;
 - (b) must be attended by a Senior Representative of each party who may bring counsel and/or other representatives of the party; and
 - (c) will take place in New York, New York, unless an alternative location is agreed upon by the parties.

(B) *Costs of Mediation.* Each party will bear one-half of the cost of the fees and expenses of the mediation. Each party will bear all its own (and their advisors') costs and fees incurred initiating, preparing, and presenting its case with respect to the mediation.

(C) *Failure of Mediation.* If the Dispute is not resolved through mediation, the mediation will be terminated by a written declaration of the mediator that the Dispute has not been resolved.

1.3 Arbitration. No party may commence arbitration until a Dispute has been subject to both negotiation and mediation in accordance with this Addendum. Either party may initiate arbitration with respect to a Dispute by filing a written demand for arbitration pursuant to the Wireless Industry Arbitration Rules of the AAA at any time after the 45th calendar day following the date that a request for mediation of such Dispute was first submitted, or, if earlier, the date that mediation is terminated. This applies to all causes of action, whether nominally a “claim”, “counterclaim”, or “cross-claim”, arising under common law or any state or federal statute. The mediation may continue after the commencement of arbitration if the parties so desire.

- (A) *Identification and Location of Arbitrators.* Unless otherwise agreed by the parties, Arbitration will be conducted by a panel of three arbitrators in New York, New York. All three arbitrators will be “neutrals,” and the parties will select arbitrators in accordance with the Wireless Industry Arbitration Rules of the AAA.
- (B) *Conduct of Arbitration.* The arbitration will be governed by the Wireless Industry Arbitration Rules of the AAA, except as otherwise set forth in Section 1.3 to this Addendum.
- (C) *Scope of Discovery.* Except as stated in this Addendum, all discovery will be governed by the Federal Rules of Civil Procedure. Discovery will include the request for and production of documents, depositions and interrogatories as specified below.
 - (1) *Depositions.* Depositions are limited to no more than 3 fact depositions per party for a period of no more than 4 hours each.
 - (2) *Expert Witnesses.* Each party may have up to 2 expert witnesses and depositions of experts, in addition to the 3 fact depositions above, for 4 hours of testimony each, to be preceded by the expert’s written report to comply with Fed.R.Civ.P.26(a)(2)(B).
 - (3) *Interrogatories.* Interrogatories will be limited in scope for the purpose of identifying persons with knowledge of facts relevant to the Dispute; and requesting specification of damages.
 - (4) *Production of Documents.* Requests for production of documents will be limited to a one-time request and will only seek documents related to the specific subject matter of the Dispute.
 - (5) *Settlement of discovery disputes.* Any issues concerning discovery upon which the parties cannot agree will be submitted to the arbitration panel for determination.
- (D) *Award.* The arbitration panel will, upon the concurrence of at least 2 of its 3 members, have the authority to render an appropriate decision or award, including the power to grant all legal remedies consistent with the terms of this Addendum and the law in the Commonwealth of Virginia. The arbitration panel will have no power to award punitive damages of any kind, or damages that are prohibited elsewhere in this Addendum. The binding or preclusive effect of any award will be limited to the actual Dispute arbitrated, and to the parties, and will have no collateral effect on any other dispute or claim of any kind whatsoever. Within 30 calendar days of the conclusion of the arbitration, the arbitrators will prepare in writing and provide to the parties the award, including factual findings and the reasons on which the award is based.
- (E) *Motions to Dismiss/Summary Judgment.* The arbitrators are empowered and encouraged, under appropriate circumstances, to grant motions to dismiss or motions for summary judgment, applying standards under the Federal Rules of Civil Procedure and the Federal Rules of Evidence.
- (F) *No Change of Venue/Forum.* Neither party will seek a transfer of venue or forum.

(G) *Costs.* Each party will bear one-half of the costs of the fees and expenses of the arbitrators. Each party will bear all its own (and their advisors') costs and fees incurred initiating, preparing, and presenting its case with respect to the arbitration.

(H) *Arbitration is Confidential.* The arbitration, along with all filings and decisions, will be confidential except as necessary to enforce the award.

2 Waiver of Rights. Boost and BSR each waive:

2.1 their rights to litigate Disputes in court, except as set forth in Section 4 of this Addendum below;

2.2 to receive a jury trial; and

2.3 to participate as a plaintiff or as a class member in any claim on a class or consolidated basis or in a representative capacity.

3. No Class Action Arbitration. Boost and BSR both agree that any arbitration will only be conducted on an individual basis and that if it is determined, despite the clear and unambiguous intent of the parties as stated in this Addendum, to permit arbitration other than on an individual basis, such arbitration will immediately be terminated and neither party will be under any obligation to continue in such arbitration. In the case of such termination, or if the arbitration clause is deemed inapplicable or invalid, or otherwise is deemed to allow for litigation of disputes in court, Boost and BSR both waive, to the fullest extent allowed by law, any right to pursue or participate as a plaintiff or a class member in any claim on a class or consolidated basis or in a representative capacity.

4. Injunctive Relief. Notwithstanding anything to the contrary herein, if Boost determines, in its sole discretion, that it may suffer irreparable harm as a result of BSR's breach, or threatened breach, of this Addendum, then Boost may, without complying with any other dispute resolution procedures in this Addendum seek injunctive relief from a court of competent jurisdiction.

5. Survival. The provisions of Addendum will continue in full force and effect subsequent to and notwithstanding the expiration or termination of the Acknowledgement.