

Acer Advantage Extended Service Plan

Terms and Conditions

GENERAL UNDERSTANDING

This Extended Service Plan (the "Agreement") is entered into by Acer America Corporation (herein referred to as "Acer," "we," "us" and "our") and the Purchaser of this Agreement (herein referred to as "Customer," "you" and "your"), who is the original purchaser of the Acer-branded hardware for which this Agreement was purchased (the "Equipment"). The Equipment covered by this Agreement is identified on the Certificate of Coverage (the "Certificate") provided to you by Acer.

[THE FOLLOWING STIPULATION IS NOT APPLICABLE TO QUEBEC CONSUMERS]: THIS AGREEMENT CONTAINS A MANDATORY AND BINDING ARBITRATION PROVISION IN WHICH YOU AND ACER AGREE TO RESOLVE ANY DISPUTES BETWEEN YOU AND ACER BY BINDING ARBITRATION. PLEASE SEE THE BINDING ARBITRATION SECTION BELOW.

ELIGIBILITY

1. This Agreement must be purchased within **365 days** of purchase of the Equipment covered by the Agreement.
2. You must register and activate the Agreement with us in order to be entitled to the services identified in the Certificate. Activation of the Agreement will occur upon valid registration of the Agreement with us as reflected in our records. See support.acer.com for more details.
3. Services will be rendered under this Agreement only to the original purchaser of the Equipment. This Agreement is not assignable or transferable to subsequent owners of the Equipment.
4. No services will be rendered under this Agreement until all Extended Service Plan fees have been paid in full by you.

TERM

Upon activation of the Agreement, the term of this Agreement begins on the date of purchase of the Equipment covered by the Agreement (the "Effective Date") and expires on the expiration date shown on the Certificate (the "Expiration Date"). (The foregoing shall be known as the "Term.")

TERRITORY

This Agreement is valid only in the United States and Canada.

SERVICES COVERED

The services covered by this Agreement are identified in the Certificate. Refer to the Certificate to determine which services listed below apply to the Equipment for which this Agreement was purchased.

1. **Extended Service.** Commencing upon the expiration of the manufacturer's limited warranty period for the Equipment and continuing for the time period specified in the Certificate (the "Extended Service Period"), we agree to repair or replace, at our option, all parts or units, and provide the necessary labor, to repair the Equipment to its proper operating condition, consistent with the manufacturer's product specifications, in the event of Equipment failure caused by defects in materials and/or workmanship. Replacement parts or units will be new or refurbished-like-new, comparable in function and performance to the original part or unit, and covered by this Agreement for 90 days from the date the replacement part or unit is shipped to you or for the remainder of the Term of this Agreement, whichever is longer. All removed or replaced parts or units become our property, and we shall have no obligation to return said parts or units to you.
2. **Toll-free Technical Support.** If toll-free technical support is identified in the Certificate, we agree to provide hardware technical support throughout the Term of this Agreement free of charge. The technical support service consists of (a) helping you diagnose and resolve problems with possible defects in the Equipment and (b) reinstalling any factory-installed operating system and software to restore the Equipment to the original factory configuration, if applicable. We may provide technical support via on-line, telephone and other methods. We may change the means through which we provide technical support at any time without notice to you.
3. **On-site Next Business Day Service.** If on-site next business day service is identified in the Certificate, you are entitled to on-site repair service, subject to the following terms and conditions:
 - (a) On-site service is available only for Equipment located within 50 miles of the location of a third party authorized by us to perform on-site service, although on-site service may not be available in certain geographic areas. For locations not covered by on-site service, carry-in or mail-in service is provided.
 - (b) We will attempt to resolve service issues over the telephone and you must provide reasonable assistance to attempt to resolve the issue with telephone support guidance before on-site service will be authorized. If telephone resolution is not possible, we will require your assistance in performing routine diagnostic procedures. If we determine, at our discretion, that on-site service is necessary, a third party service technician will be dispatched to your location the next business day after our representative determines on-site service is necessary. The determination by us that on-site service is necessary must occur by 4:00 p.m. Central Time for on-site service to occur on the next business day; otherwise, on-site service will occur within two business days.
 - (c) On-site service will be performed during normal business hours, 8:00 a.m. to 5:00 p.m. local time, excluding weekends and holidays, based on part availability and delivery schedule. You are responsible for providing access to the Equipment, reasonable cooperation with the service technician, and a reasonable work environment. Service will be provided on condition that a person at least eighteen (18) years of age is present at all times.
4. **Free Shipping of Equipment for Service.** If free shipping service to a service facility is identified in the Certificate, we will arrange for free shipping of the Equipment to a service facility specified by us for repair. You are responsible

for packing the Equipment securely for shipment. You assume the risk of loss during shipment.

5. **Free Return Shipping of Repaired or Replacement Equipment.** If free return shipping service from the service facility is identified in the Certificate, we will arrange for free shipping of the repaired or replacement Equipment back to you.
6. **Accidental Damage Protection.** If accidental damage protection service is identified in the Certificate, the Equipment is protected against accidental damage from handling ("Accidental Damage"), subject to the following terms and conditions:
 - (d) As specified in the Certificate, such protection from Accidental Damage may be limited to a single component of the Equipment, such as the screen of a notebook computer, or it may apply to the entire unit. At our option, we will repair or replace Equipment parts or the entire unit. Replacement parts or units will be new or refurbished-like-new, comparable or better in function and performance to the original part or unit, and covered by this Agreement for 90 days from the date the replacement part or unit is shipped to you or for the remainder of the Term of this Agreement, whichever is longer. All removed or replaced parts or units become our property, and we shall have no obligation to return said parts or units to you.
 - (e) The services provided do not include protection against normal wear and tear; cosmetic damage and/or other damage that does not affect Equipment functionality; theft; disappearance; misplacement; reckless, abusive, willful, fraudulent or dishonest acts committed by you or another user of the Equipment; damage caused by acts of God, fire, flood, improper environment (including lack of proper temperature or humidity); unusual electrical stress or interference; failure or fluctuation of electrical power; or damage caused by hostile or war-like actions in time of peace or war.

SERVICES NOT COVERED

Unless identified in the Certificate and elsewhere in this Agreement, the following services are not covered under this Agreement:

1. Operational or mechanical failure that is not reported prior to expiration of this Agreement;
2. Operational or mechanical failure covered by an insurance policy;
3. Installation, de-installation, engineering and/or configuration changes, packing and shipping, and relocation of Equipment;
4. Services for accessories, attachments, or other devices used with the Equipment, including but not limited to electrical work, external interconnecting cords and cables, batteries, and AC adapters;
5. Repair, damage, or loss of any removable storage media or other peripheral device, including external keyboards, mice, remote controllers, etc.;
6. Repair related to installed software, computer viruses or computer hardware that is added after the original purchase;
7. Recovery or replacement of any data or software stored on the Equipment;
8. Repair due to installation or servicing by an unauthorized party;
9. Repair due to a pre-existing condition (incurred prior to the Effective Date of coverage) known to you;
10. Repair or replacement of Equipment necessitated by fire, water, acts of God, misuse, negligence, alteration, improper environment (including lack of proper temperature or humidity), unusual physical or electrical stress or interference, failure or fluctuation of electrical power, power surges, improper movement, or acts of an unauthorized party.
11. Equipment upgrades, cleaning or preventative maintenance;
12. Repair of Equipment not purchased from Acer America Corporation or an Acer America Corporation authorized reseller;
13. Repair due to results of normal usage, such as gradual image degradation, uneven screen aging, burned-in images and pixel failure within designed specifications or that do not materially alter the products functionality;
14. Repair due to signal issues, reception problems and distortion related to noise, echo, interference or other signal transmission and delivery problems;
15. Service on Equipment whose serial numbers have been tampered with or removed;
16. Repair of normal wear and tear, cosmetic damage, exterior finish and/or other damage that does not affect Equipment functionality; and
17. Service on Equipment modified or adapted to enable it to operate in any country other than the country for which it was designed, manufactured, approved and/or authorized.

OPERATING SOFTWARE LIMITATIONS

Equipment is priced and supported under this Agreement using the original operating system software, as pre-loaded by us at the time of system purchase. If the aforementioned operating system software is altered or upgraded by you or your agent, we may request the removal of such operating system software and the restoration of the original operating system software, at your expense, in order to troubleshoot any technical problems that may arise during the term of this Agreement.

HOW TO OBTAIN SERVICE

You may be entitled to repair or replacement service during the Term of this Agreement, subject to the following terms and conditions:

1. Contact the Acer or Acer-authorized service center located in your country or at the number located in your Certificate of Coverage. A list of service centers in other countries accompanies this Agreement. You may be required to perform routine diagnostic procedures to assist in troubleshooting of your Equipment.
2. For Accidental Damage protection service, contact the Acer or Acer-authorized service center located in your country or at the number located in your Certificate of Coverage if such service is covered by this Agreement.
3. We will attempt to resolve service issues over the telephone. If telephone resolution is not possible, we will require your assistance in performing routine

diagnostic procedures. We will then issue a Return Materials Authorization (RMA) number to you as a means of identifying the Equipment returned for service.

- Unless On-site Next Business Day Service is covered by this Agreement, repair service must take place by returning the Equipment to the Acer-authorized service center identified by us at the time the RMA number is issued. Unless otherwise indicated in the Certificate or in the instructions accompanying the RMA number you receive from us, you must prepay any shipping charges, export taxes, custom duties and taxes or any other charges associated with transportation of the Equipment. In addition, you are responsible for insuring any Equipment shipped or returned. You assume the risk of loss during shipment to and from the service center.
- Use the original shipping and packing materials, or equivalent protection, and include a description of the problem encountered by the Equipment. The RMA number must be placed on the exterior shipping container.
- At our request, you must provide us or our authorized service center with proof of purchase of the Equipment prior to the start of repair.

TERMINATION; CANCELLATION

If there is a failure by one of the parties here to comply with the terms and conditions of this Agreement, both during and after the initial term, the other party may terminate this Agreement by providing written notice of such termination to the non-complying party at least thirty (30) days prior to the effective date of the same. We may cancel this Agreement if you do not pay according to the terms of the invoice, breach any term of this Agreement, sell the Equipment to another party, or substantially alter the Equipment from its original condition. You may cancel this Agreement in writing within the first thirty (30) days of your receipt of this Extended Service Plan and obtain a full refund of original purchase price as long as no claims have been made against this Agreement. If you make a claim against this Agreement within thirty (30) days of receipt of the Extended Service Plan Certificate, we will offer a pro rated refund based on the elapsed time of this Agreement or retail value of any service performed up to the date of the written cancellation. You must submit any cancellation notification to:

Acer America Corporation
Acer Advantage Programs Department
P.O. Box 6137
Temple, TX 76503.

LIMITATION OF LIABILITY

OUR MAXIMUM LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PURCHASE PRICE OF THIS EXTENDED SERVICE PLAN. THIS LIMITATION SHALL APPLY REGARDLESS OF THE FORM OF LEGAL ACTION.

REPAIR OR REPLACEMENT OF THE EQUIPMENT, OR REFUND OF THE PURCHASE PRICE OF THIS EXTENDED SERVICE PLAN, ARE YOUR EXCLUSIVE REMEDIES FOR BREACH OF THIS AGREEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE SHALL NOT BE LIABLE TO YOU FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF SOFTWARE, OR LOSS OF BUSINESS OR PROFITS, WHETHER BASED IN CONTRACT, TORT OR OTHERWISE, ARISING FROM OUR PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY WILL BE EFFECTIVE EVEN IF WE OR OUR AUTHORIZED SERVICE REPRESENTATIVE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

We shall not be liable to you for any delay or failure by us to perform our obligations under this agreement or otherwise if such delay or failure arises from any causes beyond our reasonable control.

BINDING ARBITRATION

[Binding Arbitration provisions are not applicable to Quebec consumers] THIS AGREEMENT PROVIDES THAT ALL DISPUTES BETWEEN YOU AND ACER WILL BE RESOLVED BY MANDATORY AND BINDING ARBITRATION TO THE FULLEST EXTENT PROVIDED BY LAW. YOU THUS GIVE UP YOUR RIGHT TO GO TO COURT TO ASSERT OR DEFEND YOUR RIGHTS UNDER THIS AGREEMENT (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT AS FURTHER SET FORTH BELOW IN THIS SECTION).

To the fullest extent provided by law, and except as otherwise provided below, you and Acer agree that any Dispute (as further defined below in this section) between you and Acer will be resolved exclusively and finally by binding arbitration administered by the American Arbitration Association (AAA) and conducted in accordance with the AAA's Supplementary Procedures for Consumer-Related Disputes of the Commercial Arbitration Rules and the Consumer Due Process Protocol. YOUR RIGHTS WILL THEREFORE BE DETERMINED BY A NEUTRAL ARBITRATOR AND NOT A JUDGE OR JURY. You and Acer will agree on another arbitration forum if AAA ceases operations or is not available in your location.

The arbitration will be conducted before a single arbitrator, and will be limited solely to the Dispute between you and Acer. Arbitration is the process whereby a dispute is submitted to an arbitrator, for a final and binding determination, known as the award. The arbitrator is an individual, similar to a judge, who weighs evidence, reviews the information provided by both parties, and renders an award enforceable in court. Arbitrator decisions are as enforceable as any court order and are subject to VERY LIMITED REVIEW BY A COURT. **YOU ACKNOWLEDGE THAT, BY WAY OF THIS AGREEMENT, YOU AND ACER WAIVE ALL RIGHTS TO A JURY TRIAL.**

The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. The arbitration shall be held at any reasonable location near your residence by submission of documents, by telephone, online or in person, whichever method of presentation you choose.

Under the AAA Supplementary Procedures for Consumer-Related Disputes and Consumer Due Process Protocol, you retain the right to seek relief in a

small claims court for Disputes within the scope of the small claims court's jurisdiction.

If you prevail in the arbitration of any Dispute with Acer, Acer will reimburse you for any fees you paid to AAA in connection with the arbitration. **ANY DECISION RENDERED IN SUCH ARBITRATION PROCEEDINGS WILL BE FINAL AND BINDING ON THE PARTIES, AND JUDGMENT MAY BE ENTERED THEREON IN ANY COURT OF COMPETENT JURISDICTION.**

Should either party bring a Dispute in a forum other than as set forth above, reasonable costs and expenses, including legal fees, incurred in staying or dismissing such other proceedings or in otherwise enforcing compliance with this binding arbitration provision may be awarded to the other party. **YOU UNDERSTAND THAT, IN THE ABSENCE OF THIS PROVISION, YOU WOULD HAVE HAD A RIGHT TO LITIGATE DISPUTES THROUGH A COURT, INCLUDING THE RIGHT, IF ANY, AND SUBJECT TO THE RULES OF YOUR JURISDICTION, TO LITIGATE CLAIMS ON A CLASS-WIDE OR CLASS-ACTION BASIS, AND THAT YOU HAVE EXPRESSLY AND KNOWINGLY WAIVED THOSE RIGHTS AND AGREED TO RESOLVE ANY DISPUTES IN ACCORDANCE WITH THE PROVISIONS OF THIS PARAGRAPH.**

This binding arbitration provision shall be governed by the Federal Arbitration Act, 9 U.S.C. Section 1, *et seq.* For the purposes of this Agreement, the term "Dispute" means any dispute, controversy, or claim arising out of or relating to (i) this Agreement, its interpretation, or the breach, termination, applicability or validity thereof; (ii) the related order for, purchase, delivery, receipt or use of any product or service from Acer; or (iii) any other dispute arising out of or relating to the relationship between you and Acer, its parents, subsidiaries, affiliates, directors, officers, employees, beneficiaries, agents, assigns, component suppliers (both hardware and software), and/ or any third party who provides products or services purchased from or distributed by Acer.

Further information may be obtained from the AAA on line at www.adr.org, by calling 800-778-7879 or writing to American Arbitration Association, 1633 Broadway, 10th Floor, New York, NY, 10019.

MISCELLANEOUS

- The terms and conditions of this Agreement shall prevail over any conflicting, additional inconsistent provisions, any purchase order, or other document that may be submitted by you.
- No Acer reseller, agent or employee is authorized to make any modification, extension or addition to this Agreement. If any term of this Agreement is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired.
- This Agreement is the complete agreement between the parties and supersedes all previous agreements, written or oral, with respect to the subject matter of this Agreement.
- [The exclusivity of this provision is not applicable to Quebec consumers.]** This Agreement is governed exclusively by the laws of the State of Texas as such laws are applied to agreements between residents entered into and performed in the State of Texas.
- No action or arbitration which arises out of this Agreement may be brought by either party more than two (2) years after the cause of action has arisen.
- This Agreement is entered into by Acer America Corporation, a California corporation with a principal place of business at 333 West San Carlos Street, Suite 1500, San Jose, CA 95110.

Special State Laws:

CALIFORNIA RESIDENTS: The binding arbitration provision in this Agreement does not prohibit a California resident from following the complaint resolution process outlined by the California Bureau of Electronic and Appliance Repair (BEAR). To learn more about this process, you may contact BEAR at 1-916-999-2041, or you may write to BEARHFTI, 4244 S. Market Ct, Ste. D, Sacramento, CA, 95834, or you may visit its website at www.bearhfti.ca.gov. The Administrator and Obligor under this agreement is Acer America Corporation.

KANSAS RESIDENTS: This Agreement is not an insurance policy.

NEVADA RESIDENTS: This Agreement is not an insurance policy. If the Agreement is cancelled, no deduction shall be made from the refund for the cost of any service received. This Agreement may be cancelled due to unauthorized repair occurring after the Effective Date of the Agreement that results in a material change in the nature or extent of the risk of loss.

NEW HAMPSHIRE RESIDENTS: In the event you do not receive satisfaction under this Agreement, you may contact the New Hampshire Insurance Department at 21 South Fruit Street, Suite 14, Concord, NH 03301, telephone: (603) 271-2261, or (800) 852-3416.

NORTH CAROLINA RESIDENTS: Purchase of this Extended Service Plan is not required to purchase or obtain financing of the Equipment covered hereunder.

PUERTO RICO RESIDENTS: You will not be liable for any sums for services under this Agreement, other than costs, fees and other payments specified under this Agreement. You may cancel this Agreement for any reason at any time by sending written notice to Acer America Corporation at the address provided in the Termination section of this Agreement.

SOUTH CAROLINA RESIDENTS: If we do not timely resolve your claims under this Agreement within sixty (60) days of proof of loss, you may contact the South Carolina Department of Insurance, Post Office Box 100105, Columbia, SC 29202-3105, or (800) 768-3467.

TEXAS RESIDENTS: Unresolved complaints regarding this Agreement may be addressed to the Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, TX 78711, (512) 463-6599 or (800) 803-9202 (in Texas).

CONSUMERS RESIDENT IN CANADA: This Agreement is subject to the applicable provisions of Canadian consumer protection laws applicable to consumers that cannot be derogated from by private agreement or which may prohibit the application of any provision or stipulation herein. To the extent that any stipulation or provision is so prohibited it: i) shall be construed as if it had been omitted from this Agreement; (ii) will not affect the legality, validity or enforceability of that provision in any other jurisdiction; and (iii) the remaining terms and provisions of this Agreement shall remain in full force and effect. Without limiting the generality of the foregoing and notwithstanding anything to the contrary contained herein, for residents of Quebec, British Columbia and Ontario the waiver set out in the Binding Arbitration section of this Agreement does not apply and you retain the right to litigate disputes before a court, including the right, subject to the rules of your jurisdiction, to litigate claims on a class-action basis.