



GATEWAY COMPANIES, INC.

GATEWAY MOBILE ACCESSSM PORTABLE SUPPORT KIT

THE FOLLOWING AGREEMENT AND TERMS AND CONDITIONS APPLY TO THE SERVICES OFFERED BY GATEWAY COMPANIES, INC. ("GATEWAY") UNDER ITS MOBILE ACCESS PORTABLE SUPPORT KIT PROGRAM ("PROGRAM"). THE PROGRAM IS DESIGNED TO PROVIDE FEE-BASED OPTIONAL UPGRADES IN SERVICE FOR USERS OF GATEWAY'S LINE OF PORTABLE COMPUTER PRODUCTS ("PRODUCTS"), PRIMARILY INTENDED FOR BUSINESS TRAVELERS AND OTHER MOBILE USERS OF THE PRODUCTS ("CLIENTS"). THE PROGRAM OFFERS EXPEDITED AND OTHER TECHNICAL SUPPORT AND REPAIR SERVICES IN ADDITION TO THOSE SERVICES PROVIDED UNDER THE LIMITED WARRANTY AND TERMS AND CONDITIONS AGREEMENT THAT WAS SHIPPED WITH THE PRODUCT.

THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE. PLEASE SEE PARAGRAPH 8 BELOW.

- I. **DESCRIPTION OF SERVICES.** Depending on the level of additional services purchased under the Program, the Client will be entitled to receive the following services during the term specified on the Client's invoice.
For information or service under the Program, call the **Mobile Access Hotline: 1-877-254-7166.**
 - A. **Technical and Application Support.** 24 hour per day, 7 day per week remote telephone support for hardware and software application issues and problems. Supported software applications may include tutorial, network connection, file import/export, printing, etc.
 - B. **Online Backup Service.** Web-based data storage feature that allows the Client to backup and store data online. Data storage space is allocated and software on CD is issued to the Client for this purpose. When needed, Client may retrieve the stored files from any computer with an internet connection. Gateway Online Backup Service access is available at <http://gwrw.backup.com/index.html>.
 - C. **Mobile Access Tool Kit.** Contains miscellaneous computer accessories and informational items for mobile portable using Clients.
 - D. **Express Depot Service Option.** A nationwide depot repair service where Gateway arranges for the Product to be shipped by overnight delivery to Gateway's repair center, where the Product will be repaired the day it is received and shipped back to the Client via overnight delivery. Gateway will make reasonable efforts to repair and ship the Product the same day it is received by the Gateway repair center, pending parts availability. The Gateway repair depot does not operate on weekends or holidays.
 - E. **Express Walk-in Service at Gateway Country service centers.** Client may obtain priority repair service on the Product at Gateway Country service center locations by bringing it to the nearest Gateway Country service center. The Gateway Country service center will attempt to diagnose the service problem while the Client waits and estimate the time to repair. Not all Gateway Country locations are service centers. Gateway Country stores that do not have service centers will not be able to or be responsible for repairing the Product. To locate the Country Store service center nearest you, visit our web-site at www.gateway.com or call the **Mobile Access Hotline at 1-877-254-7166.**
 - F. **Accidental Damage Protection.** Provides protection against accidental damage to or breakage of the Product. Such damage is not covered under the Product Limited Warranty unless the result of manufacturing defect. This protection program provides servicing, repair and/or parts and product replacement for physical damage caused by impact with other objects, dropping, falls, spilled liquids, immersion in liquids, power surges (when protected by an operational surge suppressor), and other such accidental causes, or a natural disaster such as flood, wind, earthquake or lightning (excluding fire). It does not include loss or damage caused by fire, theft, disappearance, misplacement, reckless, abusive, willful or intentional conduct, or damage or loss caused during shipment between Client and Gateway or its service providers. This protection program shall be governed by and conducted in accordance with the terms and conditions and parts and product replacement provisions of the Product Limited Warranty, except as otherwise provided herein. The Client will initiate the process by contacting Gateway Technical Support and returning the Product to Gateway in accordance with applicable procedures and instructions.

- G. Critical Loaner Service.** Under this option, a “loaner” portable product will be made available to the Client while his or her Product is being repaired at a Gateway Country service center. Prior to issuing a loaner portable, the Gateway Country service center will diagnose the service problem while the Client waits. The Critical Loaner Program is limited to Gateway Country locations with a service center. To locate the Country Store service center nearest you, visit our web-site at www.gateway.com or call the **Mobile Access Hotline at 1-877-254-7166**. The standard loaner period will be three (3) days but may be less or greater depending on the amount of time required to repair the Client’s Product. The loaner product shall be of a standard Gateway configuration and reasonably equipped to serve the Client’s basic portable computer needs during the repair period. Specific configuration details are available on request. The Critical Loaner Program shall be governed by, and the Client shall be responsible for the care and return of the loaner product in accordance with, the terms and conditions of this Agreement and Gateway’s Loaner Agreement, the latter of which will be executed by both parties at the time the loaner product is issued to the Client by Gateway Country service center. The loaner product must be returned by Client to the Gateway Country service center from which it was issued. As security for the proper care and return of the loaner product, the Gateway Country service center shall require the presentation of a valid and nationally recognized credit or charge card.
2. **AGREEMENT AND AUTHORIZATION TO PERFORM SERVICES.** Client’s purchase of and participation in one (1) or more features or options of the above-described Program shall constitute Client’s agreement to be bound by the terms and conditions of this Agreement and the Program and shall authorize Gateway to perform diagnostic and repair services on Client’s Product in accordance with this Agreement and the Program.
- A. Warranty Service.** If the repair is covered under an existing Product limited warranty, Client authorizes Gateway to repair the Product in accordance with the terms and conditions of such Product limited warranty and, if beyond the scope of this Program, agrees to pay any charges applicable to such repair pursuant to such Product limited warranty. Confirmation of the Product limited warranty may be required prior to Gateway’s provision of warranty service. **FOR WARRANTY SERVICE, THE TERMS AND CONDITIONS OF THE APPLICABLE LIMITED WARRANTY SHALL APPLY AND THIS PROGRAM DOES NOT MODIFY, INCREASE OR DECREASE THE RESPECTIVE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER SUCH LIMITED WARRANTY NOR DOES THIS PROGRAM GRANT CLIENT NEW RIGHTS EXCEPT AS PROVIDED HEREIN. THE WRITTEN PRODUCT LIMITED WARRANTY RECEIVED WHEN THE PRODUCT WAS PURCHASED SHOULD BE CONSULTED IF THERE ARE ANY QUESTIONS ABOUT CLIENT’S RIGHTS AND OBLIGATIONS THEREUNDER.**
- B. Out of Warranty Service.** If the repair is not covered under an existing Product limited warranty, Client authorizes Gateway to obtain parts and to perform repair services to the Product and, if beyond the scope of this Program, agrees to pay all applicable fees, taxes and other charges for such parts and services in accordance with Gateway’s current price list. **PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE OR OBLIGATION PRIOR TO CLIENT’S AUTHORIZATION TO PERFORM SERVICES. PRICES DO NOT INCLUDE APPLICABLE TAXES OR SHIPPING AND HANDLING, WHICH WILL BE ADDED TO THE PRICE. PARTS USED BY GATEWAY MAY BE NEW OR SERVICEABLY USED.**
3. **LOST OR ALTERED COMPUTER FILES.** Client is responsible for backing up all files and proprietary and confidential information on the Product and for maintaining a procedure external to the hardware products for the reconstruction of lost or altered files, data or programs. **GATEWAY SHALL NOT BE LIABLE FOR LOST OR ALTERED FILES, DATA OR PROGRAMS, EVEN IF CAUSED BY THE NEGLIGENCE OF GATEWAY OR ITS AGENTS OR EMPLOYEES OR THROUGH THE USE OF THE ONLINE BACKUP SERVICE OF SECTION 1.B. ABOVE. DIAGNOSTIC AND REPAIR SERVICES ARE PROVIDED WITHOUT ANY OBLIGATION OF CONFIDENTIALITY OR NON-DISCLOSURE ON THE PART OF GATEWAY, ITS EMPLOYEES OR AGENTS. CLIENT SHALL DELETE FROM THE PRODUCT ANY FILE OR DATA CONSIDERED TO BE PRIVATE, CONFIDENTIAL OR PROPRIETARY.**
4. **LIMITED WARRANTY; DISCLAIMER OF WARRANTIES.** To the extent the repairs made to the Product are under a Product limited warranty, this Agreement is a service contract only. The only warranty that applies to your Product is the limited warranty provided by Gateway under the Product Agreement that shipped with your Product. Gateway warrants that the services to be performed under a Product limited warranty shall be performed in a professional and workmanlike manner. For non-warranty repairs, Gateway warrants that any parts installed by Gateway during such non-warranty repairs shall be free from defects in material and/or workmanship for one year from the date the parts are installed, failing which Gateway will either, at its option: (1) correct any defect in material or workmanship, or failure of the part to conform to the manufacturer’s published specifications at no charge to you for in-house labor or materials, or (2) refund the amounts you paid for the parts upon their return to Gateway. Any replacement parts may be new or serviceably used. **GATEWAY DOES NOT WARRANT SOFTWARE OR ANY PRODUCTS OR SERVICES PROVIDED BY AN INDEPENDENT THIRD PARTY SUPPLIER OR SERVICE PROVIDER.** You must refer to the warranty provided by such independent third party supplier or service provider. To obtain service under this limited warranty, you must contact Gateway at the telephone number provided in Section 1.A above or any Country Store location. Warranty service may be denied or limited if your account is not in good standing, including outstanding debt for replacement parts not returned. If you choose to contact Gateway in writing, send your request for warranty service to Gateway Companies, Inc., 610 Gateway Drive, N. Sioux City, SD 57049 or any Gateway Country Store. For information on the location of Gateway Country Stores, call 1-800-846-2000. The limited warranties made hereunder are not transferable **FAILURE TO FOLLOW THE PROCEDURES SET OUT**

IN THIS SECTION MAY RESULT IN DELAYS IN THE REPLACEMENT OF PARTS, REPAIR, OR REPLACEMENT OF YOUR PRODUCT, OR MAY RESULT IN ADDITIONAL CHARGES TO YOUR ACCOUNT. GATEWAY RESERVES THE RIGHT TO REFUSE TO ACCEPT PRODUCTS WHERE THESE PROCEDURES ARE NOT FOLLOWED. NO INFORMATION OR ADVICE (WRITTEN OR ORAL) PROVIDED TO YOU BY GATEWAY, ITS AGENTS OR EMPLOYEES, WILL CREATE A WARRANTY BY GATEWAY, OR INCREASE THE SCOPE OF THIS AGREEMENT. THIS AGREEMENT GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG IMPLIED WARRANTIES LAST, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

5. **LIMITATION OF LIABILITY.** EXCEPT WHERE SUCH EXCLUSION IS CONTRARY TO PUBLIC POLICY, IN NO EVENT SHALL GATEWAY, ITS EMPLOYEES, AGENTS OR CONTRACTORS, BE LIABLE UNDER THIS AGREEMENT FOR ANY INDIRECT, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR REVENUE, ECONOMIC LOSS, LOSS OF DATA, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF SUBSTITUTE OR REPLACEMENT EQUIPMENT, FACILITIES OR SERVICES, DOWN TIME, YOUR TIME, THE CLAIMS OF THIRD PARTIES, AND INJURY TO PROPERTY, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING BUT NOT LIMITED TO, BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR STRICT LIABILITY, AND EVEN IF GATEWAY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IF ANY PORTION OF THIS SECTION 5 IS HELD INVALID OR UNENFORCEABLE, ANY LIABILITY OF GATEWAY, AND ITS SUPPLIERS AND SERVICE PROVIDERS UNDER THIS AGREEMENT IS EXPRESSLY LIMITED TO THE FEES YOU HAVE PAID FOR THE SERVICE GIVING RISE TO THE CLAIM. YOUR SOLE REMEDY AGAINST GATEWAY AND ITS SUPPLIERS AND SERVICE PROVIDERS IN ANY DISPUTE UNDER THIS AGREEMENT SHALL BE TO SEEK RECOVERY OF THE AMOUNTS YOU HAVE PAID, UPON THE PAYMENT OF WHICH GATEWAY AND ITS SUPPLIERS AND SERVICE PROVIDERS SHALL BE RELEASED FROM AND DISCHARGED OF ALL FURTHER OBLIGATIONS AND LIABILITY TO YOU.
6. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding of the parties and supersedes all previous oral and written agreements with regard to the subject hereof. No term or condition of any purchase order issued by the Client inconsistent with this Agreement will be binding upon Gateway. Gateway Country Store personnel do not have the authority to alter the terms and conditions of this Agreement.
7. **GOVERNING LAW.** This Agreement is governed by the laws of the State of South Dakota, without giving effect to conflicts of law rules.
8. **DISPUTE RESOLUTION.** You agree that any Dispute between You and Gateway will be resolved exclusively and finally by arbitration administered by the National Arbitration Forum (NAF) and conducted under its rules, except as otherwise provided below. The arbitration will be conducted before a single arbitrator, and will be limited solely to the Dispute between You and Gateway. The arbitration shall be held at any reasonable location near your place of business by submission of documents, by telephone, online or in person. Any decision rendered in such arbitration proceedings will be final and binding on each of 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 NAF, the arbitrator may award the other party its reasonable costs and expenses, including attorneys' fees, incurred in staying or dismissing such other proceedings or in otherwise enforcing compliance with this dispute resolution provision. **You understand that You would have had a right to litigate disputes through a court, and that You have expressly and knowingly waived that right and agreed to resolve any Disputes through binding arbitration.** This arbitration agreement is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. Section 1, *et seq.* For the purposes of this section, 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, or (ii) the purchase or use of any product, accessory, service or otherwise from Gateway; the term "Gateway" means Gateway, Inc, its subsidiaries, affiliates, directors, officers, employees, beneficiaries, agents or assigns; the term "You" means you, the original purchaser, your agents, beneficiaries, or heirs. Information may be obtained from the NAF on line at www.arb-forum.com, by calling 800-474-2371 or writing to P.O. Box 50191, Minneapolis, MN, 55405.
9. **SEVERABILITY.** If any provision contained in this Agreement is or becomes invalid, illegal, or unenforceable in whole or in part, such invalidity, illegality, or unenforceability shall not affect the remaining provisions and portions of this Agreement.

10. GENERAL.

- A. YOU MAY NOT ASSIGN THIS AGREEMENT OR ANY OF YOUR RIGHTS HEREUNDER WITHOUT THE EXPRESS WRITTEN CONSENT OF GATEWAY.
- B. PRODUCTS OF SERVICES PROVIDED BY GATEWAY PROVIDED BY GATEWAY UNDER THIS AGREEMENT MAY BE PROVIDED, AT GATEWAY'S OPTION, BY AN INDEPENDENT THIRD PARTY SUPPLIER OR SERVICE PROVIDER. ANY SUCH PRODUCTS OR SERVICES PROVIDED BY AN INDEPENDENT THIRD PARTY SUPPLIER OR SERVICE PROVIDER ARE NOT WARRANTED BY GATEWAY. PLEASE REFER TO THE WARRANTY PROVIDED BY SUCH INDEPENDENT THIRD PARTY SUPPLIER OR SERVICE PROVIDER.
- C. SUBJECT TO THE LIMITATIONS OF APPLICABLE LAW, AND IN ADDITION TO SUCH OTHER REMEDIES THAT MAY BE AVAILABLE TO GATEWAY UNDER APPLICABLE LAW, YOU HEREBY AUTHORIZE GATEWAY TO RETAIN POSSESSION OF THE PRODUCT UNTIL ALL SUMS OWED BY YOU UNDER THIS AGREEMENT HAVE BEEN PAID IN FULL OR YOU HAVE RETURNED ANY LOANER PRODUCT ISSUED TO YOU UNDER THIS AGREEMENT. IF YOU FAIL TO PICK UP YOUR PRODUCT WITHIN 30 DAYS AFTER NOTICE FROM GATEWAY, YOU SHALL BE DEEMED TO HAVE ABANDONED THE PRODUCT AND YOU HEREBY AUTHORIZE GATEWAY TO DISPOSE OF THE PRODUCT IN ACCORDANCE WITH APPLICABLE LAW INCLUDING, BUT NOT LIMITED TO, AND AT GATEWAY'S SOLE OPTION, SELLING THE PRODUCT BY PUBLIC OR PRIVATE SALE, ALL WITHOUT LIABILITY OR ACCOUNTING TO YOU.
- D. IN THE EVENT GATEWAY HIRES AN ATTORNEY TO COLLECT ANY SUMS OWED BY YOU UNDER THIS AGREEMENT OR TO OTHERWISE ENFORCE ITS RIGHTS HEREUNDER, YOU AGREE TO PAY THE REASONABLE FEES OF SUCH ATTORNEY AND ANY OTHER REASONABLE COSTS AND EXPENSES INCURRED BY GATEWAY IN ENFORCING ITS RIGHT UNDER THIS AGREEMENT.
- E. ANY SUM NOT PAID BY YOU WHEN DUE AND OWING IS SUBJECT TO INTEREST AT A RATE EQUAL TO THE LESSER OF 1½ % PER MONTH OR THE MAXIMUM RATE ALLOWED BY LAW.

MAN US WAR MOBILE ACCESS R0 11/99
8507185

610 Gateway Drive, North Sioux City, SD 57049
Gateway Home Sales: 800-846-2000 • Gateway Business Sales: 800-779-2000 • International Sales: 605-232-2000 •
www.gateway.com

© 2000 Gateway, Inc. All rights reserved. Gateway and the Gateway stylized logo are trademarks of Gateway, Inc. All other brands and product names are trademarks or registered trademarks of their respective companies. Many Gateway products are custom engineered to Gateway specifications, which may vary from the retail versions of the software and/or hardware in functionality, performance or compatibility. Some products and services may not be available for all international locations. FaxBack document 20710 Rev.1.1, 12/01/00