



ANYTIME Support Program Service Agreement

Express Digital ("Express") and the person ("Customer") ordering the Express Digital ANYTIME Access Support Program ("Support Program") hereby agree that the following terms and conditions shall govern the delivery of support services by Express to Customer under the Support Program with respect to applicable registered Express products ("Products"). Subject to Customer's termination right as set forth in Section 4 below, ordering the Support Program indicates Customer's acceptance of the terms and conditions contained in this Service Agreement. The Support Program is offered only in the US and Canada. This Service Agreement is effective upon receipt and acceptance of Customer's order by Express ("Commencement Date").

- 1. Services.** Express will provide Customer the support services ("Support Services") described at www.expressdigital.com/support (the "Support Site"). Such descriptions, as may be amended from time to time, are deemed to be part of this Service Agreement.
- 2. Restrictions.** Express may limit or terminate the Support Services to, or may elect not to renew the Service Agreement of, any Customer who uses the Support Services in an excessive, abusive or fraudulent manner. Support Services will be provided to a single registered user only. Resale, assignment or transfer of support rights is strictly prohibited, and will be grounds for termination or non-renewal of the Service Agreement. The Support Program is not available to consultants, technical support agents, software developers or other parties on behalf of multiple clients or users. Express will only provide Support Services for Products that are properly registered with Express.
- 3. Exclusions.** Express shall not be required to provide any Support Services relating to problems or issues arising out of or from (i) Customer's use of the Products in a manner for which they were not designed, (ii) damage to the media on which the Products are provided or to the computer on which the Products are installed, (iii) Customer's negligence, misuse or modification of the Products, or (iv) versions of Products other than the most recent version (e.g., 8.x) and one version back (e.g., 7.x), provided that Express shall also not be required to provide any Support Services for Products that are no longer listed on the Support Site as supported products.
- 4. Term and Termination.** Absent early termination for the reasons stated herein, this Service Agreement shall have a term of one (1) year from the Commencement Date. The Service Agreement shall terminate immediately upon nonpayment of the fees for the Support Services ordered. Express reserves the right to cancel this Service Agreement at any time or change the fees, terms, conditions, support features, procedures, pricing and support availability upon thirty (30) days notice. Customer may, by giving fifteen (15) days written notice to Express, terminate the Agreement on the effective date of any such change. In the absence of such notice of termination, the change will be deemed accepted by Customer. Upon cancellation or termination, Express will prorate and refund any excess fees paid by Customer based on the Commencement Date and the date of cancellation or termination.
- 5. Warranty and Disclaimer.** Express will use reasonable commercial efforts to provide the Support Services under this Service Agreement in a professional manner, but Express cannot guarantee that every question or problem raised by Customer will be resolved. Nothing in this Service Agreement shall be construed as expanding or adding to the warranty for the Products set forth in the End User License Agreement that accompanies such Products. EXCEPT FOR THIS EXPRESS LIMITED WARRANTY, AND FOR ANY WARRANTY, CONDITION, REPRESENTATION OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO CUSTOMER IN ITS JURISDICTION, EXPRESS MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, RELATED TO OR ARISING IN ANY WAY OUT OF THIS SERVICE AGREEMENT OR THE PROVISION OF MATERIALS OR SERVICES UNDER THIS SERVICE AGREEMENT. EXPRESS SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
- 6. LIMITATION OF LIABILITY.** EXPRESS'S LIABILITY UNDER THIS SERVICE AGREEMENT IS LIMITED TO THE AMOUNTS PAID BY CUSTOMER FOR THE SUPPORT SERVICES ORDERED BY CUSTOMER. IN NO EVENT SHALL EXPRESS HAVE ANY LIABILITY FOR ANY SPECIAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE OF EQUIPMENT OR FACILITIES, OR INTERRUPTION OF BUSINESS, ARISING IN ANY WAY OUT OF THIS SERVICE AGREEMENT UNDER ANY THEORY OF LIABILITY, WHETHER OR NOT EXPRESS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
- 7. Additions.** Any additional services added to this Service Agreement by written notice to Customer will be governed by the terms of this Service Agreement.
- 8. General.** This Service Agreement may not be transferred by Customer. This Service Agreement supersedes all other written and oral proposals, purchase orders, prior agreements, and other communications between Customer and Express concerning the subject matter of this Service agreement and constitutes the entire agreement between Express and Customer regarding provision of Support Services. This Service Agreement shall be governed by the laws of the State of Colorado without reference to conflict of law principles. The state and federal courts located in Douglas County, Colorado shall have exclusive jurisdiction over all disputes relating to this Service Agreement.