



EC AMERICA RIDER TO PRODUCT SPECIFIC TERMS AND CONDITIONS
(FOR U.S. GOVERNMENT END USERS)
(v31-Oct-2019)

1. **Scope.** This rider (“Rider”) and the attached LinkRunner, LLC d/b/a NetAlly (“Manufacturer”) product specific end-user terms establish the terms and conditions enabling EC America (“Contractor” and/or EC America”) to provide Manufacturer’s information technology products and services to Ordering Activities, as defined in the Schedule Contract, under EC America’s GSA MAS IT70 contract number GS-35F-0511T (the “Schedule Contract”) with the U.S. Government General Services Administration (“GSA”) (hereinafter Manufacturer, EC-America, and GSA may individually be referred to as a “Party” or collectively, as the “Parties”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer’s Specific Terms, as defined below, attached hereto as Attachment A, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and EC America agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and, whereas, the Parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract. Now, therefore, the Parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that the Manufacturer Specific Terms are consistent with U.S. Federal Law, including but not limited to GSAR 552.212-4 Contract Terms and Conditions-Commercial Items. To the extent any Attachment A Terms are inconsistent with U.S. Federal Law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.238-81, Modifications (Federal Supply Schedule) (April 2014) (Alternate I – JUN 2016) and (Alternate II – JUN 2016), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the Parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the Federal laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar Federal laws or regulations are enacted, to the extent allowed by Federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.



- g) Unilateral Termination. Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) Unreasonable Delay. Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) Assignment. All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) Waiver of Jury Trial. Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under Federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) Government Indemnities. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) Contractor Indemnities. All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) Renewals. All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) Future Fees or Penalties. All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) Taxes. Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) Third-Party Terms. When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third-party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any.



- q) Dispute Resolution and Standing. Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that EC America as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
 - r) Advertisements and Endorsements. Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
 - s) Public Access to Information. EC America agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
 - t) Confidentiality. Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.
 - u) Alternate Dispute Resolution. The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a Federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
3. Order of Precedence/Conflict. To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

{End}



END-USER TERMS AND CONDITIONS

(GSA v01-Oct-19)

These End-User Terms and Conditions ("General T&Cs") are by and between the eligible Ordering Activity under GSA Schedule contracts set forth in the applicable Order ("Company" or "Ordering Activity"), as further defined below, and sets forth the terms, conditions, rights and restrictions for which LinkRunner, LLC d/b/a NetAlly, and any of its subsidiaries and affiliates (collectively or individually referred to as "NetAlly") is willing to sell devices ("Hardware") and license NetAlly's proprietary software, as well as any firmware residing on such Hardware, ("Software") (The Hardware and Software may be collectively referred to as the "Product(s)"), and provide maintenance and technical support services ("Maintenance"), to Company. Unless otherwise governed by a signed contract between Company and NetAlly, only these General T&Cs will apply to any Orders made for NetAlly's Products. NetAlly's provisioning of Products, Maintenance or any other services to Company is expressly contingent upon Company's acceptance of these General T&Cs.

Receipt without return of any Products from NetAlly by Company shall be deemed as acceptance of this Order and shall also constitute Company's confirmation that the Products descriptions, quantities, term, and prices set forth in the Order in accordance with the GSA Schedule Pricelist accurately represent Company's intended purchase. All additional and conflicting terms and conditions presented with or in any communication, shall be deemed *null* and *void*.

1. Definitions.

"**API(s)**" means the software application interfaces and workflow methods made generally available by NetAlly in certain Products to enable integration, implementation, and interoperability with third party hardware and software.

"**Company**" means an eligible Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document, which has entered into a commercial agreement with NetAlly, allowing for the licensing or re-licensing of Software or distribution, sale, or resale of Products and Service.

"**Company Data**" means information that Company uploads or uses in conjunction with Company's use of the Products.

"**Data Protection Act**" means the Health Information Portability and Accountability Act (HIPAA) (29 U.S. Code § 1181, *et seq.*), Gramm Leach Bliley Act (GLBA) (15 U.S. Code § 1681), General Data Protection Regulation (GDPR) (EU 2016/679), and other applicable regulations which seek to protect the processing and storage of personal information.

"**Documentation**" means any installation guides, reference guides, operation manuals and release notes provided with the Product in printed, electronic, or online form.

"**Evaluation Product**" means software that contains a license key, which disables the Software after 30 days, or other term as agreed to by the parties, and which will render the Product unusable.

"**Order**" means the combination of Company's P.O., a Quote issued by NetAlly or a NetAlly Company, and these General T&Cs.

"**Personal Data**" means any information relating to an identified or identifiable natural person (hereafter a "Data Subject"); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity.

"**P.O.**" means a purchaser order or document, in tangible or

intangible form (e.g. .rtf, .pdf, formats, etc.), issued by Company indicating Company's acceptance of the Quote and these General T&Cs, without regards to any conflicting terms and conditions presented therein, except with respect to price, quantity, and location of Products or Services.

"**Quote**" means the document under which NetAlly offers for sale and licenses its Products, Maintenance, and other services.

"**Services**" means Maintenance as well as any other services offered by NetAlly to Company from time to time.

2. Shipment & Delivery Terms. NetAlly ships all Products, *via* ground shipment hereunder FOB Destination. Unless otherwise agreed to by the parties, all shipments will be made using the carrier designated by Company. If Company does not designate a carrier, NetAlly reserves the right to choose a carrier at Company's expense. For Software available for electronic download, delivery will be deemed to have occurred once NetAlly has made the Software available for download by Company or Company's designate agent or representative. Unless otherwise stated conspicuously on the face of the applicable Order, NetAlly reserves the right to fulfill Orders *via* multiple shipments. For all Products shipped internationally, Company will be the importer of record. Company agrees that it will not remove any NetAlly General T&Cs or other agreement from the NetAlly Product(s), and/or associated packaging. All costs incurred by Company will be in accordance with the GSA Pricelist.

3. License Grant and Restrictions. Subject to payment of the applicable license fee and the terms set forth in an applicable Order, NetAlly grants Company a limited, non-exclusive, non-transferable, revocable license to use the Software and the Documentation for Company's own internal business purposes.

(a) **Evaluation License:** NetAlly hereby grants Company a temporary, non-exclusive, non-transferable, revocable license to use the Evaluation Product set forth in the applicable NetAlly Evaluation Request Form solely for internal testing, evaluation, or demonstration purposes. If Company chooses not to purchase a license for the Evaluation Product, the Evaluation Product must be removed from Company's system(s) and all permitted copies of such Evaluation Product immediately destroyed. A Return Materials Authorization



number ("RMA #") for any Hardware Evaluation Product must be obtained prior to return of such Product.

(b) Pre-Released Products. If the Product Company has received with this license is not yet commercially available ("Pre-Released Product"), then NetAlly grants Company a temporary, non-exclusive, non-transferable, revocable license to use the Pre-Released Product and the associated Documentation, if any, as provided to Company by NetAlly solely for internal evaluation purposes. NetAlly may terminate Company's right to use the Pre-Released Product at any time at NetAlly's discretion. Company's use of the Pre-Released Product is limited to thirty (30) days unless otherwise agreed to in writing by NetAlly. Company acknowledges and agrees that (i) NetAlly has not promised or guaranteed to Company that the Pre-Released Product will be announced or made available to anyone in the future; (ii) NetAlly has no express or implied obligation to Company to announce or introduce the Pre-Released Product; (iii) NetAlly may not introduce a product similar to or compatible with the Pre-Released Product; and (iv) any use of the Pre-Released Product or any product associated with the Pre-Released Product is entirely at Company's own risk. During the term of these General T&Cs, if requested by NetAlly, Company will provide feedback to NetAlly regarding use of the Pre-Released Product. Company will not disclose any features or functions of any Pre-Released Product until NetAlly makes the Pre-Released Product publicly available.

(c) API License. NetAlly grants Company a limited, non-exclusive, non-transferable revocable license to use the API, together with applicable documentation, any sample code, and any sample applications provided with the API, solely in connection with the Products for Company's internal business purposes; provided that Company may not use the API in connection with developing a product or service that competes with Products.

(d) License Restrictions. Except as required by law, Company will not, and will not cause or permit others to, derive the source code of the Software, or reverse engineer, disassemble, or decompile the Products. Company may not (i) create derivative works of the Software, (ii) lend, rent, lease, assign, sublicense, and/or make available through timesharing or service bureau the Software, or (iii) transfer the Software or provide third party access to the Software.

(e) Third-party Technology. The Products may contain embedded third-party technology ("Third-party Materials"). Such Third-party Materials are licensed for use solely with the Product. Third-party Materials are provided subject to the applicable third-party terms of use. Nothing herein shall bind the Ordering Activity to any Third-party Materials terms unless the terms are provided for review and agreed to in writing by all parties.

(f) Ownership. NetAlly and its third-party licensors retain all right, title, and interest in and to the Products, Third party Technology and/or APIs. Company retain all right, title and interest in and to the Company Data.

4. Acceptable Use. Company specifically agrees to limit the use of the Products and/or Services to those specifically granted in these General T&Cs. Without limiting the foregoing, Company specifically agrees not to (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Software or any portion

thereof; (ii) modify, port, translate, localize or create derivative works of the Software; (iii) remove any of NetAlly's, or its vendors, copyright notices and proprietary legends; (iv) use the Products to (a) infringe on the intellectual property rights of any third party or any rights of publicity or privacy; (b) violate any law, statute, ordinance, or regulation (including but not limited to the laws and regulations governing export/import control, unfair competition, anti-discrimination and/or false advertising); or (c) propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; and/or (v) file copyright or patent applications that include the Product or any portion thereof.

5. Company & Personal Data. During the Term, Company may provide to NetAlly Company Data. NetAlly may use Company Data in connection with the performance of its obligations under these General T&Cs. Company hereby agrees to strictly comply with any and all applicable Data Protection Acts with regards to the transfer, handling storage and processing of Personal Data. Company acknowledges and agrees that should Company transfer such Personal Data to NetAlly, or other third-parties, Company will serve as such Personal Data's "Controller", as set forth in the applicable Data Protection Acts. Further, in the event of a breach of Personal Data, attributed to Company's actions or inactions in furtherance of these General T&Cs, in violation of the Data Protection Acts, Company shall promptly (i) take all necessary steps to curtail such breach; (ii) undertake all necessary actions to mitigate damages; (iii) provide the necessary notification and remediation, as set forth in the applicable Data Protection Act; and (iv) aid and assist in NetAlly's efforts to do the same, at Company's sole cost and expense.

6. {Reserved}

7. {Reserved}

8. Warranties. NetAlly warrants, for Company's benefit alone, (i) that the Hardware will be free from material defects for a period of twelve (12) months following the date of shipment of the Hardware ("Hardware Warranty Period"); and (ii) the Software, will conform materially and substantially to the Documentation for a period of ninety (90) days following the date when first made available to Company for download ("Software Warranty Period"). The warranties set forth herein do not apply to any failure of the Software or Hardware caused by (a) Company's failure to follow NetAlly's installation, operation, or maintenance instructions, procedures, or Documentation; (b) Company's mishandling, misuse, negligence, or improper installation, de-installation, storage, servicing, or operation of the Product; (c) modifications or repairs not authorized by NetAlly; (d) use of the Products in combination with equipment or software not supplied by NetAlly or authorized in the Documentation; and/or (e) power failures or surges, fire, flood, accident, actions of third parties, or other events outside NetAlly's reasonable control. NetAlly cannot and does not warrant the performance or results that may be obtained by using the Products, nor does NetAlly warrant that the Products are appropriate for Company's purposes or error-free. If during the Software Warranty Period or Hardware Warranty Period, a nonconformity is reported to NetAlly, NetAlly, at its option, will use commercially reasonable efforts to repair or replace the non-conforming Software or Hardware. **THIS REMEDY IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND NETALLY'S SOLE LIABILITY FOR A BREACH OF**



WARRANTY. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION 8, “WARRANTIES” NETALLY DISCLAIMS ALL WARRANTIES ON MERCHANDISE SUPPLIED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. {Reserved}

10. EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, AND/OR INCIDENTAL DAMAGES, WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

11. ESSENTIAL PURPOSE. THE LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES STATED HEREIN SHALL APPLY REGARDLESS OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. BOTH PARTIES HEREUNDER SPECIFICALLY ACKNOWLEDGE THAT THESE LIMITATIONS OF LIABILITY ARE REFLECTED IN THE PRICING.

12. {Reserved}

13. Relationship with Third parties. The relationship between the parties established by these General T&Cs is that of independent contractors, and nothing contained in these General T&Cs shall be construed to: (i) give either party the power to direct or control the day-to-day activities of the other; (ii) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking or franchise; (iii) allow Company to create or assume any obligation on behalf of NetAlly for any purpose whatsoever; or (iv) allow any customer, End-User, or other person or entity not a party to these General T&Cs to be considered a third-party beneficiary of these General T&Cs.

14. General Provisions.

14.1 Modification. . No modification of these General T&Cs shall be effective unless in writing and signed by both parties.

14.2 Severability & Survival. The illegality or unenforceability of any provision of these General T&Cs shall not affect the validity and enforceability of any legal and enforceable provisions hereof. Should any provision of these General T&Cs be deemed unenforceable by a court of competent jurisdiction then such clause shall be re-construed to provide the maximum protection afforded by law in accordance with the intent of the applicable provision. Any provision contained herein, which by its nature should survive the termination of these General T&Cs shall survive, including, but not limited to, Section 7 “Confidentiality”, 9 “Limitation of Liability & Exclusion of Consequential Damages”, 12 “Indemnification”, and 14 “General Provisions”.

14.3 Assignment. Neither party may assign any rights or delegate any obligations hereunder, whether by operation of law or otherwise, except with the prior written consent of the other party, which consent will not be unreasonably withheld. These General T&Cs binds the parties, their respective participating subsidiaries, affiliates, successors, and permitted assigns.

14.4 Compliance & Export Controls. Company shall comply fully with all applicable laws, rules, and regulations including those of the United States, and any and all other jurisdictions globally, which apply to Company’s business activities in connection with these General T&Cs. Company acknowledges that the NetAlly Products and/or NetAlly Services are subject to United States Government export control laws. Company shall comply with all applicable export control laws, obtain all applicable export licenses, and will not export or re-export any part of the Products and/or Services to any country in violation of such restrictions or any country that may be subject to an embargo by the United States Government or to End-Users owned by, or with affiliation to, such countries embargoed by the United States Government.

14.5. U.S. Government Use Notice. The NetAlly Software is a “Commercial Item”, as that term is defined at 48 C.F.R. § 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. § 12.212. Consistent with 48 C.F.R. § 12.212, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government End-Users (a) only as Commercial Items and (b) with only those rights as are granted to all other End-Users pursuant to the terms and conditions herein. For some components of the Software as specified in the Exhibit, Attachment, and/or Schedule, this Software and Documentation are provided on a RESTRICTED basis. Use, duplication, or disclosure by the United States Government is subject to restrictions set forth in 48 CFR 52.227-14, as applicable.

14.6 Anti-Corruption and Anti-Bribery. Company will not make or permit to be made any improper payments and will comply with the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, the Organization for Economic Co-operation and Development (“OECD”) Convention on Anti-Bribery, and other applicable local anti-bribery laws and international anti-bribery standards. Company represents and warrants that it will not pay any commission, finder's fee, or referral fee, or make any political contribution, to any person in connection with activities on behalf of NetAlly.

14.7 Applicable Law & Disputes. The parties specifically agree that the U.N. Convention on the International Sale of Goods, the Uniform Computer Information Transactions Act (“UCITA”), and the International Commercial Terms issued by the International Chamber of Commerce (“Incoterms”) shall not apply to any and all actions performed by either party hereunder in furtherance of these General T&Cs. These General T&Cs and all resulting claims and/or counterclaims shall be governed, construed, enforced and performed in accordance with the laws of the Federal Laws of the United States of America, without reference and/or regard to its conflicts of laws principles.

14.8 Force Majeure. Excusable delays shall be governed by FAR 52.212-4(f).



14.9 Waiver. Each party agrees that the failure of the other party at any time to require performance by such party of any of the provisions herein shall not operate as a waiver of the rights of such party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time.

15. Notices. All notices under these General T&Cs shall be in English and shall be in writing and given to the address indicated upon the cover page and may be sent either by (i) registered airmail; (ii) overnight delivery through a reputable third-party courier; or (iii)

via electronic mail (email) sent “read receipt” and “delivery receipt”. With respect to NetAlly’s receipt of electronic notice set forth in (iii) above such notice shall only be deemed received once Company receives a confirmation of “read receipt” and “delivery receipt” and such notice shall only be valid if sent to legal@netally.com.

{End}
