

**ATTACHMENT VII**  
**END USER LICENSE AGREEMENT**

**Please include a copy of your End User License Agreement.**

**NCS Technologies, Inc.**  
**7669 Limestone Drive**  
**Gainesville, VA 20155**  
**Company Website**  
**EULA URL (if available)**

**By signing the below you are confirming that you agree to the terms of the Carahsoft Rider.**



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Mark Pancerella - Vice President, Sales Services

\_\_\_\_\_  
October 3, 2014

Date

**NCS Technologies, Inc.**  
**7669 Limestone Drive**  
**Gainesville, VA 20155**  
**www.ncst.com**

**Carahsoft Rider to Manufacturer End User License Agreements**  
**(for U.S. Government End Users)**

- 1. Scope.** This Carahsoft Rider and the Manufacturer End User License Agreement (EULA)

establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer EULA ([www. /us.html](#)) are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41. U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's EULA are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:
- (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under GSA contracts as set forth in GSA ORDER 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
  - (b) Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.
  - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government 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) Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.
  - (e) Termination.** Clauses in the Manufacturer EULA referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the

FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:

Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court..

- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the 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 law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer EULA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer EULA referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer EULA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer EULA are hereby deemed to be deleted.
- (j) Customer Indemnities.** All Manufacturer EULA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) Contractor Indemnities.** All Manufacturer EULA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) Renewals.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) Future Fees or Penalties.** All Manufacturer EULA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.

- (n) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer EULA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer EULA and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- (r) **Limitation of Liability: Subject to the following:**
- Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.
- (s) **Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.
- (t) **Public Access to Information.** Manufacturer agrees that the EULA and this Rider contain no confidential or proprietary information and acknowledges the EULA and this Rider will be available to the public.
- (u) **Confidentiality.** Any provisions that require the Licensee 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.

## Accidental Damage Service Statement:

BY ACCEPTING THE SERVICES AND SUPPORT DESCRIBED ON THE CUSTOMER INVOICE, THE CUSTOMER AGREES TO BE BOUND BY AND ACCEPT THE TERMS AND CONDITIONS HEREIN. PLEASE READ THIS AGREEMENT IN ITS ENTIRETY. THESE TERMS AND CONDITIONS (THIS "SERVICE STATEMENT") WILL SUPPLEMENT, AND IF IN CONFLICT WITH WILL CONTROL, THE TERMS AND CONDITIONS OF ANY APPLICABLE SIGNED AGREEMENT BETWEEN THE CUSTOMER AND NCS.

### **Covered Computer Devices**

The Customer must pay a separate Total Price for each Computer Device the Customer wish to be covered by this Service. With regard to each Computer Device covered by this Service the following general terms, conditions and exclusions shall apply:

#### **Notebooks**

Any hardware encompassed within the Computer Device; including power adapter and Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Desktops**

Any hardware encompassed within the Computer Device; including Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Servers**

Any hardware encompassed within the Computer Device; including Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Web Appliances**

Any hardware encompassed within the Computer Device; including Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Mobile Products**

Any hardware encompassed within the Computer Device; including Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Thin Client**

Any hardware encompassed within the Computer Device; including Non-branded NCS hardware peripherals provided. This Agreement is for hardware only. Accidental Damage Service does not cover any defects in or damage (including without limitation virus inflicted damage) to software preloaded on, purchased with or otherwise loaded on the Computer Device, including without limitation Customer Factory Integration items. NCS will exercise reasonable efforts to, but this Statement does not guarantee that NCS will, repair or replace Customer Factory Integration items that may otherwise be excluded components.

#### **Peripherals**

All parts built in or on the base unit, including parts or accessories that are required for regular operation of the unit and shipped at point of sale, such as internal components/switches, built-in buttons, drawers, lids or panels, remote controls, synchronization cradles, or cables are covered. This Statement does not cover externally-attached peripheral devices, components, cases, or wiring classified as "accessories" or "consumables" and not built in or on the base unit, such as batteries, light bulbs, disposable/replaceable print/ink cartridges, print or photo paper, memory disks, disposable memory devices, wire connections or carrying cases. Accidental Damage Service does not cover any software shipped with peripherals.

### **Scope of Services**

#### **Repair and Replacement Service**

During the term of this Statement and subject to the limitations in this Statement, NCS will repair or replace the Computer Device as necessary to correct any damage to the Computer Device which occurs during the usual and customary usage of the Computer Device because of:

- An electrical surge damages the Computer Device's internal circuitry, or the Customer accidentally drop the Computer Device or the Computer Device is otherwise accidentally damaged from handling including damage to the Computer Device because of liquid.
- Damage because of extreme temperatures.

If NCS repairs the Customer's Computer Device, the Customer understands and agrees that NCS may replace original parts with new or used parts from the original manufacturer, or a different one. Replacement parts will be functionally equivalent to the original parts. In NCS's discretion, NCS may designate an affiliated company or contract with a third party to complete repairs on the Computer Device. If NCS decides that it is necessary to replace the Computer Device rather than repair it, the Customer will receive a Computer Device equivalent to or upgraded to the Computer Device the Customer originally purchased from NCS, as determined by NCS, in NCS's sole and reasonable discretion.

#### **Limits of Support Services**

This Agreement does not cover and NCS is not obligated to repair or replace:

- Any damage to or defect in the Computer Device that does not affect Computer Device functionality. Under this Statement, NCS is not obligated to repair reasonable wear and tear on the Computer Device and other superficial items, such as scratches and dents that do not materially impair the Customer use of the Computer Device.
- Any Computer Device that anyone other than NCS or a person NCS designate has tried to repair.
- Any repair or attempted repair on the Computer Device covered by this Agreement by any party other than us or someone NCS designate will void and cancel this Statement. NCS will not reimburse the Customer the Customer for any repairs that the Customer or another person make or attempt to make to the Computer Device.
- Any Computer Device that suffers damage in connection with or as a result of incorrect or inadequate Customer Installation.
- Any Computer Device that is lost or stolen. To receive repair or replacement of a Computer
- The Customer must return the damaged Computer Device to NCS in its entirety.
- Any Computer Device that is damaged by fire from an external source or that is intentionally damaged. If NCS finds evidence of intentional damage, NCS are not obligated to repair or replace the Computer Device.
- Any recovery or transfer of data stored on the Computer Device. The Customer is solely responsible for all data stored on the Computer Device. NCS does not provide the Customer any data recovery services under this statement. However, if hard drive replacement is necessary.
- It is not necessary that the Customer perform any preventive maintenance on the Computer Device to obtain repair or replacement of a Computer Device covered by this Agreement.
- Except as specifically provided herein, any other damages that do not arise from defects in materials or workmanship or ordinary and customary usage of Computer Device or handheld peripheral device.

#### **Limitation of Liability**

NEITHER NCS NOR ITS AFFILIATES, PARTNERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS ARE LIABLE TO THE CUSTOMER, OR ANY SUBSEQUENT OWNER OR OTHER USER OF THE COMPUTER DEVICE, FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LIABILITY OR DAMAGES FOR THE COMPUTER DEVICE NOT BEING AVAILABLE FOR USE, LOSS OR CORRUPTION OF DATA OR SOFTWARE, PERSONAL INJURY, DEATH, OTHER INDIRECT LOSS DUE TO COMPUTER DEVICE FAILURE, OR ANY AND ALL INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE COMPUTER DEVICE, EVEN IF THE CUSTOMER HAVE ADVISED US OF THE POSSIBILITY OF SUCH DAMAGES. BY ENTERING INTO ACCEPTANCE OF THIS STATEMENT, THE CUSTOMER EXPRESSLY WAIVE ANY CLAIMS DESCRIBED IN THIS PARAGRAPH. THE CUSTOMER AGREE AND UNDERSTAND THAT WE WILL NOT BE RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AGGREGATE DOLLAR AMOUNT PAID BY THE CUSTOMER FOR THE PURCHASE OF THE COMPUTER DEVICE COVERED BY THIS STATEMENT. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OR ALL OF THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO THE CUSTOMER.

#### **Customer Responsibilities**

To receive the Accidental Damage Service, the Customer is responsible for complying with the following:

##### **Cooperate with Technician**

The Customer must cooperate with the technician to ensure that the Computer Device is properly serviced. At NCS's discretion, the technician will either send the Customer a replacement part for the Customer to install on the Computer Device or give the Customer directions to ship the Computer Device to the NCS repair facility. Once at the NCS repair facility, NCS may repair the Computer Device or ship the Customer a replacement Computer Device depending on our assessment of the damage to the Computer Device. In some cases, where NCS can determine over the telephone that a replacement Computer Device will be necessary, NCS may in our discretion, ship the Customer a replacement Computer Device immediately. However, if the Customer fails to return the damaged Computer Device to us, the Customer agrees that the Customer is responsible for the retail price of the replacement Computer Device.

##### **Payment**

Accidental Damage Service is only available with the purchase of a NCS peripheral or system falling under a category listed in Covered Computer Devices above, but it is not necessary that the Customer purchase Accidental Damage Service. Our invoice to the Customer for the Computer Device will indicate whether the Customer purchased Accidental Damage Service, and will serve as the Customer receipt. In addition, the Computer Device will be tagged with a serial number that will indicate the Customer purchase of Accidental Damage Service.

## **General Terms**

### **Term and Renewal**

This Statement begins on the date the Customer receive the Computer Device from us and expires on the contract expiration date corresponding to the Accidental Damage Service term purchased. The term of this Statement may not be extended or renewed.

### **Claims of Confidentiality or Proprietary Rights**

The Customer agrees that any information or data disclosed or sent to NCS, over the telephone, electronically or otherwise, is not confidential or proprietary to the Customer.

### **Cancellation**

This Agreement is dated as of the date the Customer receive the Computer Device from us. NCS may cancel this Agreement if the Customer fails to pay us the Total Price for Accidental Damage Service in accordance with our invoice terms, make a misrepresentation to us or our agents, or otherwise breach the Customer obligations under this Agreement. NCS will not cancel this Agreement for any other reason. Accidental Damage Service must be cancelled separately for each Computer Device.

### **Entire Statement**

This Statement is the entire agreement between the Customer and NCS with respect to its subject matter and none of NCS's employees or agents may orally vary the terms and conditions of this Statement.

## Domestic Express Replacement Warranty Support Statement:

### Options:

**Standard -** Direct telephone access 10 hours/day, 5 days/week to NCS's Warranty Support Department for expedited troubleshooting of hardware issues. In accordance with NCS standard helpdesk line Monday- Friday (Excluding Holidays) 8:00AM – 6:00PM Eastern Standard Time, USA.

**TBA: 24X7 Option -** Direct telephone access 24 hours/day, 7 days/week to NCS's Global Call Center for expedited troubleshooting of hardware issues. Next Business Day (Monday- Friday (Excluding Holidays) 8:00AM – 6:00PM Eastern Standard Time, USA) response from NCS Warranty Support Department.

**Accidental Damage Option -** Accidental damage; Please See (Appendix I)

### Domestic Express Replacement Support Includes:

It is determined by a NCS technician during warranty support request (please see Requesting Warranty Service) that a Customer's System requires "Express Replacement" Service. Customer must then take the System to the carrier location within three days following receiving replacement. Customer must package System in materials reasonable for shipments not to sustain damage. Customer must provide package to the carrier to be shipped via NCS provided standard shipping to NCS's repair facility in accordance with the shipping procedures set forth below. Express Replacement Service will apply to all NCS branded Systems and Non-branded NCS provided monitors or components. This service description does not apply to Systems returned to NCS's repair facility using procedures other than those set forth herein, and neither NCS nor the carrier can be responsible for damage caused during transit of the System to the carrier or to NCS. Customer is responsible for the standard Customer shipping charges when sending the System in for repair. All liabilities limited to shipping Replacement System to Customer will be assumed by NCS.

### Mail-Out Procedures

If the technician is unable to resolve the problem over the phone and determines that Express Replacement Service is necessary (depending on Customer's Service Type), the replacement will be provided in the following manner:

#### Replacement Computer System

NCS will make every reasonable effort to ship the replacement computer system to Customer within a 24 hour period (unless otherwise stated in customer agreement) following call. Replacement computer system may not include items such as; NCS serial number label, operating system certificate of authenticity, battery, mouse, keyboard, accessories, customer software / data or hard drive. It is the Customers responsibility to transfer these components to the replacement system.

### Mail-In Procedures

If the technician is unable to resolve the problem over the phone and determines that Express Replacement Service is necessary (depending on Customer's Service Type), the following standard procedures apply; NCS will not accept Systems that are not returned in accordance with these shipping instructions:

**Display the Return Order Number:** The NCS technician will provide Customer with a Repair Order number. Customer must print the Repair Order number clearly and conspicuously on the outside of the prepaid packaging. NCS will refuse to accept, and will return to Customer, any System that does not clearly and conspicuously display the Repair Order number on the packaging.

**Shipping:** Customer and the carrier will make the shipping arrangements. The System must be shipped in the NCS standard prepaid packaging to the address given to Customer by the technician or provided on call tag.

**Package the System:** Customer will provide packaging if not provided by NCS. Customer will be responsible for ensuring that the System is properly packaged and Customer will bear the full risk of loss or damage for any System that is returned improperly packaged.

**Parts Ownership:** All service parts removed from Customer's System become the property of NCS. Customer must pay NCS at the current retail price(s) for any service parts removed from the System and retained by Customer. NCS uses new and reconditioned parts made by various manufacturers in performing warranty repairs.

**Other Shipping Precautions:** Customer should not send its manuals or any non-NCS supplied options with the System. Prior to shipping, Customer must remove the options and components from its System as instructed by the technician. In addition, Customer should remove any confidential, proprietary, or personal information and removable media such as floppy disks, CDs, or PC cards. **NCS is not responsible for any of Customer's confidential, proprietary, or personal information; lost or corrupted data; or damaged or lost removable media.**

**Transfer of Service Description:** This Service Description extends only to original purchasers of the System within the United States as determined by NCS. Subject to the limitations set forth in this Service Description.

**Limited Liability:** CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND NCS'S ENTIRE, COLLECTIVE LIABILITY IN CONTRACT, TORT OR OTHERWISE, UNDER THIS SERVICE DESCRIPTION IS THE REPAIR OF THE DEFECTIVE SYSTEM OR COMPONENTS IN ACCORDANCE WITH THIS SERVICE DESCRIPTION.



**Terms and Conditions:** NCS is pleased to provide these Services in accordance with this Service Description and the terms and conditions of the NCS Customer Master Services Agreement or Customer's separate signed agreement with NCS, as applicable. When NCS repairs the Customer Computer Device, the Customer understand and agree that NCS may replace original parts with new or used parts from the original manufacturer, or a different one. Replacement parts will be functionally equivalent to the original parts. When shipping components only; NCS will not provide Customer specified production release components for replacement; Customer will receive components in original manufacturer received condition unless otherwise stated in customer agreement. In our discretion, NCS may designate an affiliated company or contract with a third party to complete repairs on the Computer Device. If NCS decide that it is necessary to replace the Computer Device rather than repair it, the Customer will receive a Computer Device equivalent to or upgraded to the Computer Device the Customer originally purchased from us, as determined by us in our sole and reasonable discretion.

**Support Does Not Include:**

- Any Computer Device located outside of the United States (the fifty (50) states and the District of Columbia).
- Accessories, supply items, operating supplies, peripherals or parts such as batteries, frames, and covers.
- Media replacement for software NCS no longer ships with new Systems.
- Media replacement on non-NCS branded / manufactured software (i.e. Microsoft Office)
- Hardware or software support for Customer Factory Integration ("CFI") products.
- Hardware or software support for non-NCS peripherals.
- Preventative maintenance.
- Installation, de-installation, or relocation services.
- Repairs necessitated by software problems, or as a result of alteration, adjustment, or repair by anyone other than NCS (or its authorized representatives).
- Support for equipment damaged by misuse, accident, abuse of Supported System or components (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions), modification, unsuitable physical or operating environment, improper maintenance by Customer (or Customer's agent), moving the Supported System, removal or alteration of equipment or parts identification labels, or failure caused by a product for which NCS is not responsible.
- Support for damage resulting from an act of God such as, but not limited to, lightning, flooding, tornado, earthquakes, and hurricanes.
- Any activities or services not expressly described in this Service Description.
- Please read this Service Description carefully and note that NCS reserves the right to change or modify any of the terms and conditions set forth in this Service Description at any time, and to determine whether and when any such changes apply to both existing and future Customers.

## NCS Limited Battery Warranty Statement:

NCS Technologies, Inc. warrants to the original purchaser that the notebook Lithium-Ion battery pack is free from defects in material and/or workmanship for a period of one (1) year from the date of delivery. A battery shall also qualify for replacement under warranty if at any time during the warranty period it is unable to hold more than 50% of its original charge capacity. Shipping costs back to NCS must be prepaid by the original purchaser, but there is no charge for the inspection or return shipping of the battery or its replacement. If, upon inspection, NCS determines that the battery is defective in materials or workmanship, a new or refurbished replacement battery shall be provided. The replacement battery is warranted for the remainder of the original warranty or for thirty (30) days from the date of shipment, whichever is longer. The original purchaser must promptly notify NCS in writing if there is a defect in material or workmanship. Written notice in all events must be received by NCS before expiration of the warranty period.

**This warranty is not transferable.**

### **Support Does Not Include:**

- Hardware or software support for Customer Factory Integration (“CFI”) products.
- Preventative maintenance.
- Installation, de-installation, or relocation services.
- Repairs necessitated by software problems, or as a result of alteration, adjustment, or repair by anyone other than NCS (or its authorized representatives).
- Support for equipment damaged by misuse, accident, abuse of Supported System or components (such as, but not limited to, use of incorrect line voltages, use of incorrect fuses, use of incompatible devices or accessories, improper or insufficient ventilation, or failure to follow operating instructions), modification, unsuitable physical or operating environment, improper maintenance by Customer (or Customer’s agent), moving the Supported System, removal or alteration of equipment or parts identification labels, or failure caused by a product for which NCS is not responsible.
- Support for damage resulting from an act of God such as, but not limited to, lightning, flooding, tornado, earthquakes, and hurricanes.
- Any activities or services not expressly described in this Statement.
- Please read this Statement carefully and note that NCS reserves the right to change or modify any of the terms and conditions set forth in this Statement at any time, and to determine whether and when any such changes apply to both existing and future Customers.

NCS' and its suppliers' liability for failure to repair the NCS PC product to conform to the warranty after a reasonable number of attempts will be limited to a replacement of the NCS PC product or, at NCS' option, to a refund not to exceed the purchase price of the NCS PC product. These remedies are the original purchaser's exclusive remedies for breach of warranty. Under no circumstances shall NCS or its suppliers be liable for any special, incidental, or consequential damages based upon breach of warranty, breach of contract, negligence, strict liability, or any other legal theory. Such damages include, but are not limited to, loss of profits, loss of revenue, loss of data, loss of use of the NCS PC product or any associated equipment, cost of capital, cost of substitute or replacement equipment, facilities or services, down time, original purchaser's time, the claims of third parties, including customers, and injury to property.

### **DISCLAIMER OF WARRANTIES**

THE WARRANTY STATED ABOVE IS THE ONLY WARRANTY APPLICABLE TO THIS PRODUCT. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), ARE HEREBY DISCLAIMED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY NCS, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY.

Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to the Customer. Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to the Customer. This Warranty gives the Customer specific legal rights, and the Customer may also have other rights that vary from state to state.

IN THE EVENT OF INCONSISTENCY BETWEEN ANY TERMS OF THIS CONTRACT AND ANY TRANSLATION THEREOF INTO ANOTHER LANGUAGE, THE ENGLISH LANGUAGE VERSION SHALL PREVAIL.

THIS DISCLAIMER OF WARRANTIES AND LIMITED WARRANTY ARE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF VIRGINIA.