

AllyCare Product Support Services Terms and Conditions

These AllyCare Product Support Services Terms ("Maintenance Description") state the terms and conditions under which NetAlly will deliver technical support services for the following NetAlly products: EtherScope®, OneTouch™, LinkRunner™, AirCheck™ and AirMagnet Mobile, which includes firmware ("Software") and hardware ("Hardware" and together with Software collectively referred to as "Product") that have been purchased from NetAlly or a NetAlly authorized reseller or distributor. [PLEASE NOTE: Any product purchased from unauthorized third parties (e.g., online auction site, end-users, aftermarket users, etc.) will not qualify for nor will receive AllyCare support.] The Products are subject to the terms of the agreement under which the Product was originally purchased ("Agreement"). In the event of a conflict between the terms of the Agreement and this Maintenance Description, the terms this Maintenance Description will govern. NetAlly reserves the right to change or discontinue the offerings described in this Maintenance Description provided maintenance does not change for the remainder of the then-current maintenance term. Terms not defined in this Maintenance Description are as defined in the Agreement.

1. AllyCare Product Support Description.

A. General

1. Subject to the terms herein, AllyCare services includes: access via www.netally.com to maintenance releases, enhancements, corrections, bug fixes, and modifications made to the Software that are provided to NetAlly customers generally as part of these AllyCare support services (collectively referred to as "Updates") for covered Products. Priority access to the technical support team is Monday through Friday from 3:00 a.m. – 8:00p.m. ET and is closed during NetAlly holidays.

B. Hardware/Accessory Repair or Replacement

1. When Hardware has been pre-qualified as defective or faulty by NetAlly's technical assistance center, NetAlly at its sole discretion will either repair or replace the unit. Replacement units will be the same or higher model and may be refurbished. Accessories that were originally shipped with the Hardware or Software may be entitled to repair or replacement in accordance with these terms at NetAlly's sole discretion; commercial off the shelf accessories including but not limited to WiFi network adaptors and general-purpose batteries are expressly excluded.

2. Any service repair must be performed by a NetAlly authorized service representative. Requests for service must be submitted via the internet or by phone and will be pre-qualified by NetAlly's Technical Assistance Center (TAC).

3. Damage attributable to natural depreciation ("ordinary wear and tear") or due to abuse of the Hardware does not qualify for AllyCare services. NetAlly reserves the right to determine if the cause of failure or out of specification performance is due to abuse of the Product. Should NetAlly determine that the Product failure is due to abuse, any applicable warranty or AllyCare service coverage will be immediately voided for that Product. Abuse includes damage resulting from dropping the instrument. Future coverage will be denied to such Product unless it has undergone repair and is deemed suitable for coverage by an authorized NetAlly service repair facility.



4. A Return Material Authorization ("RMA") number must be obtained prior to the return of defective Products for repair or replacement. If NetAlly receives Products without a valid or correct RMA number identified on the outside of the packaging of such Products, NetAlly will have no obligation to provide AllyCare support with respect to such Products. NetAlly will pay shipping charges for Hardware replacements under AllyCare services.

Shipping from NetAlly is by common carrier, "2 day" unless circumstances require later shipment. Shipping back to NetAlly and any return shipping will be "second day" ship. Prior to returning defective Products to NetAlly for repair or replacement, Customer must remove any confidential, proprietary, or personal information, including without limitation, personal health information or personally identifiable information, as such is defined under applicable local law, regulation, or directive. In addition, customer is responsible for backing up customer's data on the hard drive(s) and any other storage device(s) in the hardware. NetAlly is not responsible for any of customer's confidential, proprietary, or personal information or removal thereof; lost or corrupted data; or damaged or lost removable media.

5. Repair/exchange (with pre-paid shipping) for primary Hardware/Accessories is not available in certain countries worldwide. Contact NetAlly's Technical Assistance Center to see if these services are available in your area.

C. Eligibility

1. AllyCare services are non-transferable.

2. Term and Renewal. Unless otherwise agreed to by the parties in writing, the initial term for AllyCare will be for twelve (12) months. Maintenance support services may not be cancelled during the applicable term

3. Invoicing, Fees and Pricing. Fees for AllyCare services are due and payable net thirty (30) days from the invoice date and are as set forth in the applicable NetAlly quotation or price list if purchased directly from NetAlly. If AllyCare services have been purchased via an authorized NetAlly channel partner, fees and payment terms for AllyCare services will be as negotiated between such channel partner and Customer. Payments are non-refundable.

4. Continuing Availability.

If NetAlly discontinues a Product, NetAlly will continue to make AllyCare available for no less than two years from the date of discontinuation of sale. AllyCare on a discontinued software product will be limited to technical support. Bug fixes will be identified only for the then-current Software release. Repair of hardware products will be restricted to parts availability.

5. Substitutions; Software Updates. NetAlly reserves the right to substitute functionally compatible products not affecting network configurations. Updates include all bug fixes and enhancements which become elements of the standard Product.

6. Limitations and Exclusions. NetAlly is not obligated to provide troubleshooting or updates containing additional features and enhancements other than defect corrections, or to provide AllyCare on Software beyond one release back from the current version. NetAlly is not liable for delays caused by third parties. Geographical restrictions or limitations may apply to the Maintenance support services described herein and such services may not be available in all areas. NetAlly is not obligated to provide Maintenance support services with respect



to claims resulting from the fault or negligence of customer or a third party; fault in third party hardware or programs used in conjunction with the Software; improper or unauthorized use of the Products; modifications or repair of Products by a party other than NetAlly or its authorized contractor; a force majeure event and any causes external to the Product such as power failure or electric power surge; modification to factory default configurations; or use of the Products in combination with equipment or software not supplied by NetAlly or recommended in the Product documentation. Functional upgrades such as faster processors; increased memory / flash, etc. are not covered under AllyCare Support and are separately chargeable at the then-current list price.

7. Confidential Information. All technical and business information, including without limitation all Software and Updates provided by NetAlly, contain valuable trade secrets of NetAlly and constitute confidential information. Customer agrees to protect the confidentiality of such information with the same degree of care by which it protects its own such confidential information, but no less than reasonable care. Customer may not provide access to or disclose confidential information to any third party without the prior written consent of NetAlly. Confidentiality obligations set forth in the then-current end user product license agreement accompanying the Products will apply.

8. Limitation of Liability. NETALLY WILL NOT BE LIABLE TO CUSTOMER FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT, PUNITIVE, OR INCIDENTAL DAMAGES OF ANY KIND RESULTING FROM THE PROVISION OF PRODUCTS OR MAINTENANCE SUPPORT SERVICES HEREUNDER. IN NO EVENT WILL NETALLY'S TOTAL LIABILITY TO CUSTOMER FOR ANY OTHER DAMAGES EXCEED THE AMOUNT PAID OR PAYABLE FOR THE PRODUCT OR MAINTENANCE SUPPORT SERVICES GIVING RISE TO THE CLAIM.

9. Termination. NetAlly may terminate AllyCare services for cause in the event of an occurrence of any of the following: (a) Customer fails or is delinquent in the payment of fees (b) Customer resides in a country on the US Department of Commerce embargo list (c) Customer is found to be falsifying any claims on mainframes or accessories (d) Customer knowingly uses AllyCare services to take advantage of services and entitlements for products not covered.

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