

## Commercial License Terms

### 1. Services.

a. Software Service. NIC Federal, LLC or its affiliate (“NIC”) will provide government (“Client”) with remote electronic access to the Software Service specified on Exhibit A during the term of the agreement between Client and NIC (together with these Commercial License Terms, the “agreement”), subject to Client’s compliance with the agreement. The Software Service will be provided using NIC’s proprietary software, APIs, processes, user interfaces, know-how, techniques, designs, ideas, concepts, and other tangible or intangible technical material or information (“NIC Technology”).

b. Acceptance. Acceptance of the Software Service shall be deemed to occur when the Software Service is placed in live productive use for Client.

c. Support and Maintenance. NIC will provide email and/or telephone support during normal business hours and will also provide a 24x7 monitored outreach mechanism to report Severity 1 Incidents. NIC will resolve any error in the Software Service reported by Client or otherwise known to NIC in accordance with the following priority level to such error:

(1) Severity 1 Incident. In the event the Software Service is rendered unavailable or if the delivery of expected critical functionality thereof has failed (such as a comprehensive outage or consistent transaction failures), NIC shall use commercially reasonable efforts to resolve the issue within one hour 80% of the time, measured annually, after receiving Client notification of such an event. NIC shall provide Client with periodic reports (no less frequently than

once every 30 minutes) on the status of the error and resolution.

(2) Severity 2 Incident. In the event the Software Service or the delivery of expected critical functionality thereof is available but has substantially degraded in performance (such as intermittent availability or irregular transactions issues), NIC shall use commercially reasonable efforts to resolve the issue within six hours 80% of the time, measured annually, after receiving Client notification of such an event. NIC shall provide Client with periodic reports (no less frequently than once every 60 minutes) on the status of the error and resolution.

(3) Severity 3 Incident. In the event the delivery of expected non-critical Software Service functionality has degraded in performance without material impact on Client outcomes, NIC shall use commercially reasonable efforts to resolve the error within five business days of receiving Client notification of such error. NIC shall provide Client with periodic reports (no less frequently than once each day) on the status of the error and resolution.

d. Support Exclusions. NIC is not obligated to provide support to the extent the need for support was created in whole or in part by:

(a) the negligence or willful misconduct of Client, or any unauthorized use or modifications of the Software Service or its operating environment;

(b) any failure or defect of Client’s or a third party’s equipment, software, facilities, third party applications, or internet connectivity (or other causes

outside of NIC's or its subcontractor's or services provider's control);

(c) Client's use of the Software Service other than in accordance with this agreement; or

(d) an Excusable Delay as that term is defined in FAR Section 52.249-14.

- e. Updates. NIC will provide updates (e.g., bug fixes, vulnerability mitigation, data integrity issues, minor regulatory compliance and other minor enhancements and versions) to the Software Service that NIC makes available to all customers from time to time at no additional cost.

## **2. Permitted Uses, Restrictions, and Ownership.**

- a. Client is solely responsible for (i) providing and maintaining the hardware and software necessary to remotely access and use the Software Service; (ii) using frequently updated, industry standard virus and malware protection software to prevent the introduction of viruses and other malware into the Software Service from Client's network or hardware; (iii) identifying and preventing any unauthorized access to, use of, or disclosure of the Software Service or any content on the Software Service by advising NIC promptly, but in no event more than two business days after Client learns of such access, use or disclosure.
- b. Client shall not (and shall not permit others to) (i) modify or interfere with the Software Service or the NIC Technology; (ii) reverse engineer, decompile, or attempt to discover the source code of the Software Service, or the NIC Technology; or (iii) resell or otherwise use the Software Service for any purpose

other than its own internal business purposes.

- c. As between the parties, NIC alone (and its licensors, where applicable) own all right, title, and interest, in and to the Software Service, NIC Technology, or any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Client or any other party relating to the Software Service. Client will not copy, distribute, reproduce, or use any of the foregoing except as expressly permitted under the agreement. All rights in the NIC Technology not expressly granted to Client are reserved by NIC and its licensors.
- d. NIC acknowledges that as between the parties, Client controls the means and uses of data put into the Software Service by Client or an end user ("Client Data"); *provided, however*, that Client grants NIC the right to use any and all Client Data: (i) to perform its obligations described in the agreement, (ii) for back-up or testing purposes, and (iii) to the extent permitted by applicable law, in blinded, de-identified or aggregated form for the purpose of data analysis, compilation, interpretation, study, reporting, publishing, improvement of the Software Service, and product and service development.
- e. Client is responsible for maintaining the security of all access credentials granted to it, for the security of its information systems used to access the Software Service, and for its end users' use of the Software Service. Client is responsible for all activities conducted under its login credentials. NIC has the right at any time to terminate or suspend access to any user if NIC reasonably believes that such termination or suspension is necessary to

preserve the security, integrity, or accessibility of the Software Service, any Client Data, NIC, or NIC's other customers.

- f. When NIC is providing the Software Service and related services as a Payment Facilitator, Client will enter into a submerchant agreement with sponsor bank, payment processor and NIC, as required by credit card rules.

3. **Disclaimers.** Except as otherwise provided in the agreement, NIC provides all services to Client without warranties, express or implied. Client acknowledges that the payment and data processing activities will require transmission of Client Data over the Internet, and that the Internet consists of multiple participating networks that are not subject to the control of NIC. Client therefore understands and agrees that to the extent such networks are not subject to NIC's control, NIC cannot and does not guarantee the privacy, security or authenticity of any information transmitted over the Internet, due to the nature of the Internet.

4. **Limitation of Liability.** IN NO EVENT SHALL NIC'S AGGREGATE LIABILITY ARISING FROM OR RELATING TO THE AGREEMENT EXCEED (A) WITH RESPECT TO BREACH OF SECURITY OF CLIENT DATA, THREE TIMES NET REVENUES RECEIVED BY NIC ASSOCIATED WITH THE AGREEMENT IN THE PREVIOUS 12-MONTH PERIOD, OR (B) WITH RESPECT TO OTHER CLAIMS, NET REVENUES RECEIVED BY NIC ASSOCIATED WITH THE AGREEMENT IN THE PREVIOUS 12-MONTH PERIOD. "NET REVENUES" MEANS TOTAL REVENUES LESS

MERCHANT AND INTERCHANGE FEES. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SOFTWARE SERVICE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NIC SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY DEFECT IN OR FAILURE CAUSED BY CLIENT OR ITS OTHER CONTRACTORS, OR OF THE TELECOMMUNICATIONS NETWORK CONNECTING CLIENT, END USERS OR THEIR SYSTEMS OR EQUIPMENT TO THE SOFTWARE SERVICE.

5. **Government Restricted Rights.** The Software Service and any accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable, and are commercial products, licensed on the open market at market prices, and were developed entirely at private expense and without the use of any government funds. Accordingly, if Client is an agency of the US Government or any contractor therefor, Client only receives those rights with respect to the Software Service as are granted to all other end users under

license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors. Any use modification, reproduction, release, performance, display, or disclosure of the Software Service by any government shall be governed solely by the terms of these Commercial License Terms and shall be prohibited except to the extent expressly permitted herein. Client shall not use the Software Service to provide services to any public sector, government or end user where such would affect NIC's rights in the Software Service or require any affirmative action to be taken by NIC due to governmental mandates or flow down regulation.

6. **Miscellaneous.** If any provision herein is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full

force and effect. The failure of either party to enforce any right or provision in these Commercial License Terms shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing. The parties can amend this agreement only by a written agreement of the parties that identifies itself as an amendment to this agreement. The agreement, together with these Commercial License Terms, comprises the entire agreement between Client and NIC regarding the subject matter contained herein and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding such subject matter. NIC may terminate the agreement at any time upon 30 days' prior written notice. The following Sections shall survive any expiration or termination of these Commercial License Terms : Section 2 subparts (b)-(e) "Permitted Uses, Restrictions, and Ownership", Section 3 "Disclaimers", Section 4 "Limitation of Liability" and Section 6 "Miscellaneous."

## Exhibit A

### Software Service

<b>Service Offering</b>	<b>Description</b>
<b>Web application</b>	This is the web-based, mobile or Integrated Voice Response (IVR) system that allows a user to identify who they are and what services they need to purchase or pay for with the government.
<b>Common Checkout Pages</b>	This is a web-based module that is described by the Payment Card Industries (PCI) Security Standards Council as a Third-Party Payment Page that is rigorously tested on a prescribed basis for security controls related to the protection of cardholder data when processing an electronic payment.
<b>Gateway (TPE<sup>®</sup> Payment Engine)</b>	This is the primary engine responsible for all aspects of transacting, reconciling, and reporting for an electronic payment transaction.
<b>Gov2Go<sup>®</sup> Platform</b>	This is a native mobile and web platform that can learn about an end user's tax responsibilities, tracks those interactions, notifies them about an upcoming deadline or payment, and provides for one-click payments to complete the transaction.
<b>OnTheGo<sup>®</sup> Pay</b>	This platform enables government field personnel the ability to capture payments made with Payment Cards via a mobile application that works with encrypted swipers on agency-provided mobile devices. OTG is available for iOS and Android devices and interfaces with the core solution to allow for gateway processing, transaction management, and financial reporting.