

UBIQUITI TERMS AND CONDITIONS OF FREE COMPETITIVE UPGRADE PROGRAM

By participating in the Free Competitive Upgrade Program, you are agreeing to these terms and conditions (“Terms and Conditions”) which set forth the entire agreement (“Agreement”) between us relating to the Free Competitive Upgrade Program. These Terms and Conditions define the Free Competitive Upgrade Program and all offers made by us. Please read them carefully.

All items delivered under the Free Competitive Upgrade Program (“Products”) are from Ubiquiti Networks, Inc. (“Ubiquiti”; “we”; “us”; “our”), located at 2580 Orchard Parkway, San Jose, CA 95131, United States, and are delivered solely as samples for the promotion of our new Products to provide an economical means for early adopters to experience the advantages of our products over those of more known providers. The Products delivered under the Free Competitive Upgrade Program are to be used instead of the eligible equipment that you have identified as part of your registration for the Free Competitive Upgrade Program. For these purposes, eligible equipment is limited to Ruckus ZoneFlex Access Points, 7xxx Indoor or 7xxx outdoor models, and Aruba 130, 100, 90 and 175 series access points. All offers relating to the Free Competitive Upgrade Program expire on June 30, 2013. No money is payable to us in exchange for Products that we deliver under the Free Competitive Upgrade Program, and we will pay for the normal shipping costs of the Product to you. You agree that we will determine, in our discretion, your eligibility to participate in the Free Competitive Upgrade Program. We reserve the right to terminate the Free Competitive Upgrade Program at any time for any reason without liability.

Quantities are limited. If your registration for the Free Competitive Upgrade Program is not completed until after the limited number of Products that we have reserved for the Free Competitive Upgrade Program has been assigned to other customers, you will not be eligible to participate. All participants are limited to one Product unit per business entity or other eligible institution (i.e., only one unit per organization). Only business entities and other qualified institutions in the contiguous United States are eligible to participate in the Free Competitive Upgrade Program. We will only ship to the address in the contiguous United States provided with your registration, and not to any post office boxes. You represent that your participation in the Free Competitive Upgrade Program will not place you in violation of any agreements that you have or laws applicable to you. All offers are void where prohibited.

You agree to promptly respond to any email enquiries that we may make in order to confirm your eligibility. Following our email confirmation of your participation in the Free Competitive Upgrade Program, we will use reasonable efforts to ship to you the Product to be used by you instead of the equipment that you have identified in your registration. You are not requested to deliver to us any equipment or items of any kind. You agree to dispose of all replaced equipment in a legal and environmentally friendly manner.

You agree that we may use the contact information provided as part of your registration to communicate requests for feedback regarding your upgrade to the Product. We may also use your contact information to inform others in your organization that you are already a participant in the Free Competitive Upgrade Program, such as if we receive additional requests from your organization.

1. Scope

These Terms and Conditions apply to the delivery of all Products and constitute a legally binding agreement irrespective of whether you accept these Terms and Conditions by written acknowledgement, by implication, or by use or other acceptance of the Product(s). We specifically reject any different or additional terms and/or conditions to these Terms and Conditions, unless we explicitly agree to those terms and conditions in writing.

2. Registration

2.1. By registering for the Free Competitive Upgrade Program, you make an offer to Ubiquiti to participate in such Program to receive the applicable Product. The individual consenting to these Terms and Conditions is acting for the business entity or institution identified in your registration, and represents that such individual is authorized to do so. For these purposes, your offer, once accepted by us, will be deemed an “order” for the Product. Without limiting the generality of the foregoing, by accepting or using Products, you are agreeing to these Terms and Conditions.

2.2. Although we will use commercially reasonable efforts to deliver to you the Product that you have ordered, there may be occasions where we are unable to supply these Products because, for example, such Products are no longer being manufactured or

available, we are unable to source relevant components or (c) other reasons. In such circumstances, we will contact you and may suggest an alternative Product. If you do not accept our proposed substitution, then we will cancel the order.

3. Delivery and Shipment

3.1. Subject to these Terms and Conditions, we will supply to you (but not install) the Products indicated on the order confirmation from us.

3.2. Delivery dates which might be specified (whether oral or in writing) are estimates only.

4. Risk and Title

Title and risk of loss or damage to all Products you ordered will pass to you upon Ubiquiti’s delivery of the Products to the carrier of our choice.

5. Acceptance

Unless otherwise agreed in writing all shipments (which for the purpose of this Section shall be deemed to include the contents of packaged Products as well as the packages themselves and the number of packages) shall be deemed correct and undamaged. All communications with Ubiquiti must reference Ubiquiti’s order

confirmation, and include the exact nature of any discrepancy between the order and shipment in number or type of Products shipped.

6. Free Upgrade

We will not charge you for the unit of Product that we deliver and that you use instead of the equipment to be replaced as identified in your registration for the Free Competitive Upgrade Program.

7. Taxes All taxes, if any, due on account of purchases hereunder shall be payable by you. We will, however, pay any applicable sales taxes directly.

8. Proprietary Rights

You agree to not use Ubiquiti's name, logo, trademarks, trade names, trade dress, design, look and feel or other proprietary rights (together "Proprietary Rights") in any advertising, communications, publications or other work without the prior written permission of Ubiquiti. You further agree to not remove, obfuscate, deface, cover or alter any Ubiquiti mark or other mark to any Product, its packaging or any associated materials. Neither you nor your agents will register or use any trademark, trade name trade dress, design or logo that may cause confusion with any Ubiquiti Proprietary Rights.

9. Software License

9.1. You acknowledge that Products may contain not only hardware but also software (including, without limitation, operating systems, application software, firmware, bundled software, stand-alone software and downloadable software) ("Software"), which may be embedded in hardware, or it may be contained separately on media.

9.2. You will be responsible for ensuring that any Software or Product solution you ordered is suitable for your requirements and is compatible with your existing systems (hardware and software), installation locations, and practices.

9.3. Any Software incorporated into or provided for use in or with a Product (whether initially, as part of maintenance or support or otherwise) is not sold, but rather, is licensed. Such Software may include Software that is subject to an open source license (respectively, "Open Source Licensed Software and "Open Source License") and Software that is not Open Source Licensed Software ("Proprietary Licensed Software"). Open Source Licensed Software and information regarding same are available at: <http://downloads.ubiquiti.com>. Your rights with respect to the Open Source Licensed Software will be limited to the rights granted, and will be subject to the conditions and limitations imposed under, the respective Open Source License. Ubiquiti does not grant any rights with respect to the Open Source Licensed Software. The delivery of any Products, and Ubiquiti's grant of the licenses herein, is conditioned upon your agreement and compliance with any applicable Open Source License. You acknowledge and agree that Ubiquiti makes available to you any Open Source Licensed Software "AS IS" without any warranties whatsoever, and Ubiquiti cannot and does not warrant or promise that (a) any applicable Open Source License effectively grants to you the rights necessary for you to use the Open Source Licensed Software as contemplated or required by you, and (b) the applicable Open Source License, or your access and use of the Open Source Licensed Software, will continue or remain in effect for any particular period of time. You assume all risk arising out of or relating to any claim that (i) any Open Source Licensed Software, or your use thereof, infringes or violates any rights of any third party, (ii) any judicial, administrative or other interpretation, enforcement or invalidation of any Open Source License, (iii) any partial or complete termination or cancellation of any rights granted or derived from any Open Source License, and (iv) any resulting

denial or termination of access to, or use of, any Open Source Licensed Software.

9.4 Subject to these Terms and Conditions, Ubiquiti hereby grants to you a non-exclusive, royalty free, non-transferable and non-sublicensable license to use the Proprietary Licensed Software solely for your use with the applicable Product, and then strictly in accordance with the documentation and any other use restrictions applicable for such Product. You will not (and will not allow any third party to) modify, reverse engineer (except to the extent applicable law prohibits reverse engineering), incorporate or use in any other works, create derivatives of, or copy Proprietary Licensed Software (except as specifically authorized in documentation provided by Ubiquiti for purposes of installation, support or maintenance). Your use of the Proprietary Licensed Software is further subject to the terms and conditions of the applicable license agreement(s) accompanying the Product, if any, and any applicable patent, trademark, copyright, and other intellectual property laws. Except as expressly set forth herein or in documentation provided by Ubiquiti, no rights or licenses in the Proprietary Licensed Software, whether by implication, estoppel or otherwise, are granted to you.

10. Export Control

You agree that Products delivered under the Free Competitive Upgrade Program are for use solely in the contiguous United States and you will not export any Product or related component or software delivered hereunder. Without limiting the generality of the foregoing, you acknowledge that all Products obtained from Ubiquiti are subject to the US government and foreign export control and economic sanctions laws and regulations. You agree, represent and warrant that (a) you will be solely responsible for complying with all export laws and restrictions and regulations, including, but not limited to, United States export regulations, such as restrictions of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other foreign agency or authority regulations, and (b) you will not export, or allow the export or re-export of any Product, or otherwise make available, or cause to be made available, any Products without first obtaining all necessary licenses or other approvals or otherwise in violation of any such restrictions, laws or regulations. You further represent and warrant that you are not a person or entity that is listed on any United States Government list of prohibited or restricted countries or nationals.

11. Warranties; Limitations; Disclaimer

11.1. Ubiquiti Hardware Products -- Ubiquiti warrants to you that the Product delivered hereunder, under normal use, shall be free of defects in material and workmanship for a period of one (1) year from date of purchase (the "Warranty Period"), under normal use and operation.

- (i) If any Product furnished by Ubiquiti under this Agreement fails to conform to the warranty in Section 11.1, you may return to Ubiquiti such Product under a Returned Materials Authorization (RMA) issued by Ubiquiti during the Warranty Period (available at <http://www.ubnt.com/support>). Ubiquiti's sole obligation and entire liability, and your sole and exclusive remedy, for any such non-conformity shall be, at Ubiquiti's sole discretion, either to repair or replace such non-conforming Product with a conforming Product, provided that: (a) you notify Ubiquiti, promptly upon becoming aware of such non-conformity, in writing that such Product failed to conform to the warranty in Section 11.1 and (b) Ubiquiti is reasonably satisfied that the alleged non-conformity actually exists and was not caused by any of the causes set forth in Section 11.3(ii).
- (ii) This warranty does not cover your labor costs for removing and reinstalling the machine for repair nor for any expendable parts that are readily replaced in normal use.

- (iii) All Products returned to Ubiquiti under an RMA shall be shipped to Ubiquiti freight prepaid. Ubiquiti will pay the return freight via a service of Ubiquiti's choice.
- (iv) Any products shipped to Ubiquiti Networks under an RMA, but which are not covered by the warranty in Section 11.1, will not be returned to the customer under any circumstances.
- (v) Ubiquiti Networks will have no responsibility or liability in relation to data or customer installed software.

11.2. Ubiquiti Software – Ubiquiti warrants to you that each item of the Proprietary Licensed Software, as delivered or updated by Ubiquiti and properly installed and operated on Products or other equipment it is originally licensed for, will function during its respective Warranty Period substantially as described in the user documentation supplied by Ubiquiti with the Proprietary Licensed Software. If any Proprietary Licensed Software fails to conform with the warranty in this Section 11.2 during such Warranty Period, Ubiquiti's sole obligation and entire liability, and your sole and exclusive remedy, for any such non-conformity shall be, at Ubiquiti's option, for Ubiquiti or Ubiquiti's supplier to provide a suitable fix, patch or workaround for the non-conformity, which may be included in a future revision of the Proprietary Licensed Software. For any specific Software licensed to Ubiquiti by a third party and distributed by Ubiquiti to the end-user, any warranty terms offered by such third party licensor to the end-user shall apply in lieu of, and not in addition to, the warranty in this Section 11.2.

11.3. Limitations – Notwithstanding anything to the contrary herein or otherwise:

- (i) Ubiquiti does not warrant that any Software licensed or made available by Ubiquiti is error-free or that its use will be uninterrupted. Ubiquiti shall not be obligated to remedy any Software defect, which cannot be reproduced with the latest revision of the Software.
- (ii) The warranties set forth in Sections 11.1 and 11.2 shall only apply if: (a) the Product (including Software) has been properly installed and used at all times in accordance, and in all material respects, with the applicable Product documentation; and (b) all cabling requirements are followed for installations. In addition, the warranties set forth in Sections 11.1 and 11.2 do not apply to any Product (including Software) which has been (1) opened and/or altered, except by Ubiquiti technical personnel, (2) painted, rebranded or physically modified in any way, (3) damaged due to errors or defects in cabling, (4) subjected to misuse, abuse, negligence, abnormal physical, electromagnetic or electrical stress, including lightning strikes, or accident, including failure to follow the user manual or any other documentation supplied or made available by Ubiquiti, or any use restrictions applicable to the Product (including Software), (e) damaged or impaired as a result of using third party firmware, or (f) returned with no MAC Address label.
- (iv) Replacement parts furnished under the warranty in Section 11.1 may be refurbished or contain refurbished components.

11.4. Third-party products (hardware and software) and services – The limited warranties in Sections 11.1 and 11.2 cover Ubiquiti hardware and software products only. All third-party products (including, without limitation, non-Ubiquiti products contained in product bundles or promotions) and services are sold, distributed or otherwise provided "as is" and without warranty from Ubiquiti, but may be accompanied by a third party's warranty, as provided in any documentation or license agreements that accompanies such products and/or services.

11.5. Disclaimer -- EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED HEREIN, UBIQUITI'S PRODUCTS (INCLUDING SOFTWARE) AND SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED. UBIQUITI, ITS AFFILIATES, AND ITS AND THEIR THIRD PARTY DATA, SERVICE, SOFTWARE AND HARDWARE PROVIDERS HEREBY DISCLAIM AND MAKE NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, ACCURACY, QUALITY OF SERVICE OR RESULTS, AVAILABILITY, SATISFACTORY QUALITY, LACK OF VIRUSES, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT NEITHER UBIQUITI NOR ITS THIRD PARTY PROVIDERS CONTROLS YOUR EQUIPMENT OR THE TRANSFER OF DATA OVER COMMUNICATIONS NETWORKS, INCLUDING THE INTERNET, AND THAT THE PRODUCTS AND SERVICES MAY BE SUBJECT TO LIMITATIONS, INTERRUPTIONS, DELAYS, CANCELLATIONS AND OTHER PROBLEMS INHERENT IN THE USE OF COMMUNICATIONS NETWORKS. UBIQUITI, ITS AFFILIATES AND ITS AND THEIR THIRD PARTY PROVIDERS SHALL NOT BE LIABLE FOR ANY INTERRUPTIONS, DELAYS, CANCELLATIONS, DELIVERY FAILURES, DATA LOSS, CONTENT CORRUPTION, PACKET LOSS, OR OTHER DAMAGE RESULTING FROM ANY OF THE FOREGOING.

12. Consequential Damages Waiver; Limitation of Liability

12.1. IN NO EVENT SHALL UBIQUITI BE LIABLE TO YOU OR ANY THIRD PARTY, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, CONDITION, TORT, STRICT LIABILITY, STATUTE OR OTHERWISE, FOR ANY LOST BUSINESS PROFITS OR REVENUE, LOSS OF CONTRACTS, LOSS OF DATA, INTERRUPTION IN USE, UNAVAILABILITY OF DATA, OR THE COST OF THE PROCUREMENT OF SUBSTITUTE GOODS, FOR ANY OTHER SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES OR FOR PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT. **The maximum aggregate liability of Ubiquiti to you or any third party on any and all claims of any kind arising under or related to this Agreement, whether in contract, warranty, condition, tort, strict liability, statute, or otherwise, SHALL NOT EXCEED FIFTY U.S. DOLLARS (US\$50).**

12.2. Exceptions -- Nothing in this Agreement shall limit or exclude Ubiquiti's liability for (i) death or personal injury caused by Ubiquiti's negligence, (ii) fraud, or (iii) any liability which cannot be excluded by law. In particular, if this Agreement is held to constitute a supply of goods or services to a "consumer" by a court of competent jurisdiction by application of mandatory principles of consumer protection laws in that jurisdiction ("Consumer Protection Law"), nothing contained in this Agreement shall exclude or restrict your rights in relation to the Products supplied or otherwise provided hereunder where to do so is unlawful pursuant to Consumer Protection Law.

13. Prohibition on Reverse Engineering

To the maximum extent permitted by applicable law, you agree not attempt to decompile, reverse-engineer or otherwise disassemble the Products and any Software licensed hereunder.

14. Term and Termination; Survival

This Agreement will be effective as of the date of your registration for the Free Competitive Upgrade Program relating to the Products until terminated by either party for any reason. Sections 2.2, 4, 5, 6, 7 through 15 shall survive the termination of this Agreement; provided that the license herein to the Proprietary Licensed Software shall simultaneously terminate. Any accrued rights of Ubiquiti to payment and remedies for breach shall remain in effect.

15. General

15.1. Governing Law and Jurisdiction -- This Agreement shall in all respects be governed by and interpreted under the laws of the State of California, USA (without regard to the conflicts of laws provisions thereof or the United Nations Convention on Contracts for the International Sale of Goods), and you agree to submit to the exclusive jurisdiction of the courts of Santa Clara County, California, and the U.S. District Court for the Northern District of California.

15.2. Miscellaneous -- This Agreement contains the complete and exclusive statement of the terms of the agreement of the parties with respect to the subject matter hereof, and all prior agreements and understandings, whether written or oral, between the parties with respect to the subject matter hereof, are merged herein. The parties are each independent contractors, and neither party is granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the other party. This Agreement may not be modified, amended or supplemented, except by a signed writing by all parties. No waiver of any right, power or privilege hereunder shall be valid unless made in writing and signed by the waiving party. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held by any arbitration panel or court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement or the application of such provisions as applied to other persons, places and circumstances shall remain in full force and effect. This Agreement may not be assigned or delegated by you without the prior written approval of Ubiquiti, and this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns as permitted herein. If any Proprietary Licensed Software and accompanying documentation are being provided to an agency or instrumentality of the U.S. Government, the Proprietary Licensed Software and accompanying documentation shall be "commercial computer software" and "commercial computer software documentation" (as applicable) developed exclusively at private expense by Ubiquiti. Pursuant to FAR 12.212 and/or DFARS 227.7202 and their successors, and any other applicable laws or regulations, use, reproduction and disclosure of the Proprietary Licensed Software and accompanying documentation shall be governed by this Agreement.

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