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9. **RESERVED.**

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Some states do not allow limitations on how long an implied warranty lasts and some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation and exclusion may not apply to You. This limited warranty gives You specific legal rights, and You may also have other rights which vary from state to state. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Extreme’s negligence; (2) fraud; or (3) for any other matter for which liability cannot be excluded by law.

13. RESERVED.
14. Reserved.

EXHIBIT A

ExtremeWorks Support Program

Extreme Networks, Inc. ("Extreme") agrees to provide the ExtremeWorks Support Program and related Support Plans to you pursuant to the following terms and conditions.

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

1.1 "Authorized Users" means those individuals authorized by Ordering Activity to use the Services on behalf of Ordering Activity.

1.2 "Authorized Resellers" means those companies (a) authorized by Extreme to resell, promote or deliver the ExtremeWorks Support Program to the marketplace, and (b) through which Ordering Activity has purchased theExtremeWorks Support Program.

1.3 "Defect" means a failure of any Product to operate in accordance with Extreme's technical specifications as set forth in the End User Documentation.

1.4 "End User" means a purchaser of the Services who acquires such Services for ordinary business usage and not for purposes of further distribution or resale.
1.5 “End User Documentation” means Product documentation, Product specifications and other related materials.

1.6 “Intellectual Property Rights” means any and all current and future (i) rights associated with works of authorship; including but not limited to copyrights, moral rights, and mask-work rights; (ii) patent rights, rights of priority, and design rights; (iii) trade secret rights, (iv) trademark rights (including service mark rights) and trade dress rights; (v) all other intellectual and industrial property rights of every kind and nature which may exist anywhere in the world, whether registered or unregistered; and (vi) any and all applications and registrations, renewals, extensions, provisionals, continuations, continuations-in-part, divisions, reissues or reexaminations of any of the foregoing.

1.7 Reserved.

1.8 “Products” mean Extreme commercial networking products as identified in the Price List, including (i) hardware products with embedded Software, (ii) Software Products in object code form, (iii) End User Documentation, and (iv) other materials related to the foregoing, if any, supplied to you in a commercial package.

1.9 “Releases” mean Updates and Upgrades, collectively. No Alpha or Beta or non-production versions shall be considered Releases.

1.10 “Services” mean the services provided by Extreme under the ExtremeWorks Support Program, Premier Services Program (PSP) Foundation Services or any other end user services provided by Extreme under this Agreement in accordance with the applicable program guide.

1.11 “Software” or “Software Products” mean Extreme software products in object code form which are either sold separately or embedded into Extreme hardware products.

1.12 “Trademarks” mean “Extreme Networks” and the applicable Product trademarks as listed in Extreme’s usage guidelines, subject to revision from time to time in Extreme’s sole discretion.

1.13 “Update” means a new version of a Software Product that includes defect corrections, bug fixes and/or minor enhancements that operate within the framework of the specifications for the current Upgrade of the Software Product, but does not include substantive features or functions not performed by the prior Release of the Software Product.

1.14 “Upgrade” means a new version of a Software Product that includes substantive features or functions not performed by the prior Release of the Software Product.

2. Services. The scope of the Services provided to Ordering Activity hereunder is based on the support plan purchased by Ordering Activity for each unit of the Product purchased. Certain on-site Services may not be available in some geographic regions or may require a “phase-in” period before they can be made available to Ordering Activity. Extreme shall have the right to use subcontractors to perform all or part of the Service(s), as it deems appropriate. To be eligible for the PSP Foundation Service, Ordering Activity must have Extreme equipment with current maintenance support entitlements. Future Services are deemed added to this Agreement at such time as they are added to the Schedule Contract. Extreme has the right to discontinue the distribution or availability of any Service at any time upon sixty (60) days’ prior notice. In accordance with the Support Plan purchased for the applicable Product, the Services may include the following:

2.1 Releases. Extreme or its authorized representatives will make available to Ordering Activity all Releases made generally available by Extreme only for Products for which Ordering Activity has an active contract for Services. The content of all Releases shall be decided upon by Extreme in its sole discretion. Updates for Products for which Ordering Activity has an active contract for Services shall be provided to Ordering Activity at no additional charge during the term of this Agreement. Extreme shall impose additional charges for Upgrades. Ordering Activity shall install only one (1) copy of a Release for each Product under an active contract for Services, and Ordering Activity is prohibited from installing Releases on any Product which is not covered under an active contract for Services.
2.2 Corrections. Extreme shall use commercially reasonable efforts to provide a correction or workaround for any reported and reproducible Defect in any Product for which Services have been purchased with a level of effort commensurate with the severity level; provided that Extreme shall have no obligation to correct all Defects in the Products. Ordering Activity shall notify Extreme TAC of the nature and severity of such Defect and the specific serial number of the applicable Product, and provide Extreme with enough information to locate and reproduce the Defect. Extreme shall not be responsible for correcting any Defect not attributable to Products or any Defect listed under Section 3 (“Exclusions”).

3. Exclusions. The Services provided by Extreme hereunder will not include support and maintenance of any third party software or hardware not provided by Extreme. Extreme is not required to provide any services for problems arising out of: (i) Ordering Activity’s failure to implement all Updates issued under the Services; (ii) alterations of or additions to the Products performed by parties other than Extreme; (iii) accident, natural disasters, terrorism, negligence, or misuse of the Products (such as, without limitation, operation outside of environmental specifications or in a manner for which the Products were not designed); (iv) interconnection of the Products with other products not supplied by Extreme, or (v) certain components, including but not limited to the following: spare fan trays, blank panels, cables, cable kits, rack mount kits, brackets, antennas, GBICs and miniGBICs. Extreme shall only be obligated to support the then-current revision of the Products and the immediately prior revision.

4. Ordering Activity Obligations.

4.1 Ordering Activity Assistance. Ordering Activity agrees to provide Extreme with reasonable access to the Products for which problems are reported and all back-ups and Ordering Activity information services, technical personnel, facilities, and premises as required in connection with the performance of the Services as long as Extreme complies with all of Ordering Activity’s security requirements. To efficiently resolve problems and perform local hardware diagnostics, Ordering Activity shall provide modem level access for all Ordering Activity sites. Ordering Activity may provide passwords and/or activate the modem when needed. Ordering Activity shall be responsible for any and all cables, hardware or software not provided by Extreme. Ordering Activity’s failure to provide such access or information may delay the Services and/or result in Extreme’s inability to perform the Services; in such cases, Extreme shall not be liable for any consequences relating to or resulting from such delay or failure to perform.

4.2 Contact People. Ordering Activity shall appoint at least two (2) individuals who have been trained and are knowledgeable on Extreme products within Ordering Activity’s organization to serve as the primary contacts between Ordering Activity and Extreme and to receive support as provided herein. Ordering Activity shall provide and shall update as appropriate contact information for the primary contacts, including address, phone number and email address. All of Ordering Activity’s support inquiries shall be initiated through these primary contacts.

4.3 Restrictions on Copying and Reverse Engineering. As a material consideration for this Agreement, Ordering Activity expressly agrees not to translate, disassemble, reverse compile or reverse engineer the Products, including the Software Products, in whole or in part, except to the extent such prohibition is restricted by applicable law. Ordering Activity will not copy, modify, create derivative works, rent, lease, loan or use for timesharing or service bureau purposes any Products, including Software Products, in whole or in part without the prior written approval of Extreme, which approval may be withheld in Extreme’s sole discretion.

4.4 No Removal of Markings. Ordering Activity agrees to comply with all legends that appear on or in the Products and not to remove or destroy any patent, copyright, logo, trademark, trade name, proprietary marking, or confidentiality legend placed upon or contained within Products, containers or End User Documentation supplied by Extreme.

5. Reserved.


6.1 Product End of Life. In the event Extreme discontinues or otherwise ceases to make available to its customers a particular Product model number, Extreme will continue to offer Services for such Product in accordance with its then-
current End of Life Policy available at www.extremenetworks.com/libraries/services/EndofLifePolicy.pdf. The Services shall remain in effect with respect to other Products, if any, then covered.

6.2 Support Plan End Of Life. Extreme reserves the right to discontinue any Support Plan in its sole discretion upon sixty (60) days’ notice, by email, notification on Extreme’s website, or any other method permitted under this Agreement, to Ordering Activity; however, Extreme will continue to provide services under such discontinued Support Plan through the end of any prepaid support period.

7. RESERVED. 8. Return Process. If Ordering Activity is returning a Product to Extreme, Ordering Activity must first obtain a Return Material Authorization (“RMA”) number from Extreme. Ordering Activity must return the entire contents of the defective Product and dated End User proof of purchase for the defective Product, if requested by Extreme, marked with the RMA number, to a receiving point designated by Extreme. Shipping cartons that are not marked with RMA numbers will be rejected by Extreme and returned to Ordering Activity. Extreme will pay the transportation charges (excluding taxes, duties and customs) in accordance with the Support Plan purchased for such Product. Notwithstanding the foregoing, Ordering Activity retains sole responsibility for risk of loss or damage to Products during shipment to and from Extreme. Products returned to Extreme may be repaired or replaced by Extreme at Extreme’s sole discretion. Replacement Products may be new or refurbished Products.


9.1 Intellectual Property Rights. Ordering Activity acknowledges that the Products are proprietary to Extreme and its suppliers, and that Extreme and its suppliers retain exclusive ownership of all Intellectual Property Rights in and to the Products, including in and to any Software Products and Trademarks. Ordering Activity will take all reasonable measures to protect Extreme’s Intellectual Property Rights in any Product. Except as expressly provided herein, Ordering Activity is not granted any right to any Intellectual Property Rights with respect to any Product.

9.2 License. All Releases provided under the Services are licensed subject to the terms and conditions of the then-current Software license agreement for such Software Product in effect at the time the Release is provided.

10. Warranty. All Updates provided hereunder are warranted for the remaining warranty period of the original Software Product, if any, as specified in the warranty card which shipped with the original Software Product. All Upgrades are warranted as set forth in the warranty card for such Upgrade. Replacement Products provided under the Services are warranted for the remaining warranty period of the original Product, if any, as specified in the warranty card which shipped with the original Product. Nothing in the Services shall be construed as expanding or adding to the warranty set forth on the warranty card. Extreme will use all reasonable commercial efforts to provide the support requested by Ordering Activity under this Agreement in a professional and workmanlike manner. In the event that Extreme fails to meet this warranty, Extreme may reperform the Services, but Extreme cannot guarantee that every question or problem raised by Ordering Activity will be resolved. EXTREME WARRANTS THE SERVICES ONLY TO ORDERING ACTIVITY AS THE END USER PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. EXCEPT AS SET FORTH ABOVE, EXTREME MAKES, AND ORDERING ACTIVITY RECEIVE, NO OTHER WARRANTIES OF ANY KIND. EXTREME EXPRESSLY DISCLAIMS ALL WARRANTIES, TERMS AND CONDITIONS, WHETHER EXPRESS, IMPLIED (in fact or by operation of law), STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, TERM OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE WITH DESCRIPTION, ABSENCE OF HIDDEN DEFECTS, ANY WARRANTY OF NON-INFRINGEMENT, AND ANY WARRANTY, TERM OR CONDITION THAT MAY ARISE BY REASON OF USAGE OF TRADE, CUSTOM, COURSE OF DEALING OR COURSE OF PERFORMANCE.