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5. A program that contains no derivative of any portion of the Library, but is designed to work with the Library by being compiled or linked with it, is called a "work that uses the Library". Such a work, in isolation, is not a derivative work of the Library, and therefore falls outside the scope of this License. However, linking a "work that uses the Library" with the Library creates an executable that is a derivative of the Library (because it contains portions of the Library), rather than a "work that uses the library". The executable is therefore covered by this License. Section 6 states terms for distribution of such executables. When a "work that uses the Library" uses material from a header file that is part of the Library, the object code for the work may be a derivative work of the Library even though the source code is not.

Whether this is true is especially significant if the work can be linked without the Library, or if the work is itself a library. The threshold for this to be true is not precisely defined by law. If such an object file uses only numerical parameters, data structure layouts and accessors, and small macros and small inline functions (ten lines or less in length), then the use of the object file is unrestricted, regardless of whether it is legally a derivative work. (Executables containing this object code plus portions of the Library will still fall under Section 6.) Otherwise, if the work is a derivative of the Library, you may distribute the object code for the work under the terms of Section 6. Any executables containing that work also fall under Section 6, whether or not they are linked directly with the Library itself.

6. As an exception to the Sections above, you may also combine or link a "work that uses the Library" with the Library to produce a work containing portions of the Library, and distribute that work under terms of your choice, provided that the terms permit modification of the work for your own use and reverse engineering for debugging such modifications. You must give prominent notice with each copy of the work that the Library is used in it and that the Library and its use are covered by this License. You must supply a copy of this License. If the work during execution displays copyright notices, you must include the copyright notice for the Library among them, as well as a reference directing the user to the copy of this License. Also, you must do one of these things:

- a) Accompany the work with the complete corresponding machine-readable source code for the Library including whatever changes were used in the work (which must be distributed under Sections 1 and 2 above); and, if the work is an executable linked with the Library, with the complete machine-readable "work that uses the Library", as object code and/or source code, so that the user can modify the Library and then relink to produce a modified executable containing the modified Library. (It is understood that the user who changes the contents of definitions files in the Library will not necessarily be able to recompile the application to use the modified definitions.)
  - b) Use a suitable shared library mechanism for linking with the Library. A suitable mechanism is one that (1) uses at run time a copy of the library already present on the user's computer system, rather than copying library functions into the executable, and (2) will operate properly with a modified version of the library, if the user installs one, as long as the modified version is interface-compatible with the version that the work was made with.
  - c) Accompany the work with a written offer, valid for at least three years, to give the same user the materials specified in Subsection 6a, above, for a charge no more than the cost of performing this distribution.
  - d) If distribution of the work is made by offering access to copy from a designated place, offer equivalent access to copy the above specified materials from the same place.
  - e) Verify that the user has already received a copy of these materials or that you have already sent this user a copy. For an executable, the required form of the "work that uses the Library" must include any data and utility programs needed for reproducing the executable from it. However, as a special exception, the materials to be distributed need not include anything that is normally distributed (in either source or binary form) with the major components (compiler, kernel, and so on) of the operating system on which the executable runs, unless that component itself accompanies the executable. It may happen that this requirement contradicts the license restrictions of other proprietary libraries that do not normally accompany the operating system. Such a contradiction means you cannot use both them and the Library together in an executable that you distribute.
7. You may place library facilities that are a work based on the Library side-by-side in a single library together with other library facilities not covered by this License, and distribute such a combined library, provided that the separate distribution of the work based on the Library and of the other library facilities is otherwise permitted, and provided that you do these two things:
- a) Accompany the combined library with a copy of the same work based on the Library, uncombined with any other library facilities. This must be distributed under the terms of the Sections above.
  - b) Give prominent notice with the combined library of the fact that part of it is a work based on the Library, and explaining where to find the accompanying uncombined form of the same work.
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### **FORTICARE/FORTIGUARD SERVICE CONTRACT**

Service Contracts are available for Fortinet's commercial networking products and related equipment, including hardware products with embedded software, and software products sold and licensed to you pursuant to Fortinet's End User License Agreement ("EULA" provided to you with the products, which EULA is incorporated herein by reference and is available at <http://www.fortinet.com/doc/legal/EULA.pdf> "Terms and Conditions of Sale"). These Terms and Conditions of Sale represent the entire agreement between the parties with respect to maintenance and support services and shall supersede all prior representations, discussions, negotiations and agreements, whether written or oral.



## 1. DEFINITIONS

- 1.1. "Customer" means any person or entity that has purchased a Service Contract from a FortiPartner.
- 1.2. "Defective Unit" means a Product purchased by the Customer which has ceased to operate in accordance with Fortinet's Product Documentation.
- 1.3. "FortiPartner" means a Fortinet authorized distributor or a Fortinet authorized reseller of Fortinet Products and Services.
- 1.4. "Hardware" means the Fortinet computer peripheral devices excluding all Software incorporated in or bundled with such devices.
- 1.5. "No Trouble Found Unit(s)" means a Product that has been returned to Fortinet as a Defective Unit by the Customer, and is later discovered to be in proper working order.
- 1.6. "Product(s)" means any Fortinet Hardware with associated Software or stand-alone Software product which is/are available for sale through FortiPartners or directly from Fortinet.
- 1.7. "Registration Date" means the date when the Service Contract is registered via Fortinet's website:  
<https://support.fortinet.com>.
- 1.8. "Renewal Service Contract" means a Service Contract (FortiCare and/or FortiGuard), as identified in Fortinet's then current price list, which may be purchased for any hardware that has previously been registered with an accompanying Service Contract at Fortinet's Support site.
- 1.9. "Return Material Authorization" or "RMA" means the required number or code obtained from Fortinet prior to returning a Defective Unit for a Replacement Unit.
- 1.10. "Replacement Unit" means a Product shipped by Fortinet to replace a Customer reported Defective Unit for which the Customer has obtained an RMA.
- 1.11. "Service Contract" means these terms for the Services purchased by the Customer as evidenced by their Service Contract Registration Document.
- 1.12. "Service Plan Documentation" means the Fortinet issued collateral, product description, or documentation which outlines the Services to be performed by Fortinet.
- 1.13. "Service Contract Registration Document" means the electronic document emailed by Fortinet with a contract registration number to the email address provided for in the Order Documentation which contains the Customer's entitlements.
- 1.14. "Services" means any individual or combination of Support and/or Subscription services purchased by the Customer and evidenced in the Customer's Service Entitlement Document.
- 1.15. "Software" means the Fortinet computer software which is licensed in object code form, including any error corrections, updates and bug fixes provided by Fortinet.
- 1.16. "Subscription Services" means Fortinet's FortiGuard suite of services, per Fortinet's current Customer

Support Services Reference Guide, which may include one or all of the following: Antivirus, Antispam, IPS, and Web Filtering.

1.17. "Support" or "Support Services" means Fortinet's technical telephone, email, and web assistance provided by Fortinet or its FortiPartners, per Fortinet's current Customer Support Services Reference Guide, to help the Customer with problem resolutions.

## **2. SUPPORT AND SUBSCRIPTION SERVICE CONTRACTS OFFERED**

2.1. Service Contracts Offered. Fortinet offers various Support and Subscription Service Contracts ranging in hours of operation and included Services. In addition, Fortinet offers Subscription Services and other Product service offerings to protect your newly purchased assets. For a complete list of the Service Contracts available for purchase please visit <http://www.fortinet.com/products/> or contact a FortiPartner in your area.

2.2. Ordering and Use. Each Service Contract purchased by Customer is valid for a single unit of Product and expires in accordance with Section 3.1 (Term) of these provisions. An attempt to use a Service Contract with more than one unit of Product, (i.e. in addition to the unit of Product the Service Contract was originally purchased for) is considered a material breach, and the parties will work to true-up the account. For clarity, use of a Service Contract with a replacement unit, or with certain upgraded units identified by Fortinet as applicable to the Service Contract, shall not be considered a material breach.

## **3. TERMS OF SERVICE**

3.1. Term. These terms are valid for the length of time provided for on the quotation.

3.2. Registration. Customer must register the Product for which the Service Contract was purchased within three hundred sixty-five (365) days from the date of the original shipment by Fortinet of the applicable Product and Service Contract to its distributor, FortiPartner or Customer, whichever originally purchased directly from Fortinet. **SERVICE CONTRACTS WHICH ARE NOT REGISTERED WITHIN THREE HUNDRED SIXTY-FIVE (365) DAYS FROM THE DATE THE SERVICE CONTRACT WAS ORIGINALLY SHIPPED FROM FORTINET SHALL BE FORFEITED AND FORTINET SHALL HAVE NO OBLIGATION TO THE CUSTOMER REGARDING THESE PROVISIONS OR ANY RELATED SUPPORT SERVICES.** It is Customer's responsibility to ensure it knows the deadline to register the Service Contract within the three hundred sixty-five (365) day period, and please make sure your FortiPartner makes clear when this contract was originally shipped from Fortinet. Notwithstanding anything to the contrary, Fortinet may register any Renewal Service Contract upon invoicing. Upon renewal of the Service Contract, Customer authorizes Fortinet to automatically register the Renewal Service Contract for subsequent renewal periods for which a purchase order has been placed.

3.2. Renewal Registration. In order to maintain a continual service period, the effective date of any Renewal Service Contract shall begin as set forth herein, (the "Renewal Service Contract Effective Date"). In the event that registration of a Renewal Service Contract is beyond ten (10) calendar days following the expiration date of the previous Service Contract, such Renewal Service Contract Effective Date will be the later of (a) the calendar day following the expiration date of the Customer's previous service Contract and (b) the date that is one hundred eighty (180) calendar days prior to the actual registration date of the Renewal Service Contract. The above does not apply if Renewal Service Contracts are registered and started within ten (10) calendar days following the expiration date of the Customer's previous Services Contract. In such case the start date shall be the date of registration.

For example and for illustration purposes only, in the event a one year Renewal Service Contract is registered ninety (90) days after the expiration date of the Services contract being renewed, the term of such Renewal Service Contract will terminate 275 days (365 – 90) from the date of registration of such Renewal Service Contract. As another example, in the event a one year Renewal Service Contract is registered two hundred (200) days after the expiration date of the Services

contract being renewed, the term of such Renewal Service Contract will terminate 180 days from the date of registration of such Renewal Service Contract.

3.3. Support Policy. The delivery of all Services shall be subject to and provided in accordance with Fortinet's then current Customer Support Services Reference Guide ("Reference Guide"). The Reference Guide details the Service and Support process and any service level agreements provided by Fortinet with your specific Fortinet Support Services. The Reference Guide is available at the following link <https://support.fortinet.com/Login/UserLogin.aspx>. The Reference Guide is subject to change and Fortinet shall post notices of any changes on the support website <https://support.fortinet.com/Login/UserLogin.aspx> with no less than thirty (30) days notice prior to the effective date of the change. The Customer hereby agrees and acknowledges that by continuing to accept Services beyond the effective date of the change as provide for in any notification, the Customer accepts and agrees the changes to the Reference Guide. Furthermore, the Customer hereby acknowledges and agrees that Customer is solely responsible for adhering to and monitoring Fortinet's support website for updates and changes to the Reference Guide.

3.4. Product Life Cycle Policy. All Services provided hereunder are subject to Fortinet's Product Life Cycle Policy which is available Fortinet's Support website.

#### **4. POINT OF CONTACT**

Fortinet may, at its option, provide the Services directly or indirectly, through any of its FortiPartner, agents, or sub-contractors.

#### **5. DESCRIPTION OF PROGRAMS**

5.1. Principle Period of Services. Services are provided during the hours described in the Reference Guide.

5.2. Telephone and Email Support. All telephone and email support will be delivered in accordance with any Service Plan Documentation and Fortinet's Support Policy.

5.3. Web-based Support. The Fortinet corporate website [www.fortinet.com](http://www.fortinet.com) provides access to a variety of information including on-line documentation. To engage Customer Services and Support on an ongoing basis, an account must be created on the Fortinet support website <https://support.fortinet.com>. This site includes access to the FortiCare ticketing system for product and contract registration as well as creation of ticket and webchat requests. It may also include Subscription Service updates, Maintenance and Feature Releases, and technical support alerts. Login information and passwords are provided upon registration of the account. Customer hereby agrees and warrants that only authorized information technology personnel shall have access to the login and password information. Fortinet shall use reasonable efforts to ensure web access is available on a 24x7x365 basis, but will not be responsible for internet downtime beyond its reasonable control.

5.4. Hardware Support. If the Customer's Service Contract includes hardware support, the Services shall be delivered as described in the applicable Service Plan Documentation and shall be provided in accordance with Fortinet's Support Policy. Please refer to Fortinet's Support Policy regarding the Hardware Support claim process. For Service Contracts containing Advanced Hardware repair or replacement, Fortinet is not responsible for any delays in delivery related to export or customer regulations or processes. Should the Customer fail to return a Defective Unit within thirty (30) days from the receipt of the Replacement Unit for such Defective Unit, or should a defective unit sent in by Customer be determined to be a No Trouble Found Unit, Customer agrees that Fortinet shall be authorized to invoice Customer at the then current list price of the Product sent to replace Defective Unit was sent to replace. For any Service Contract which incorporates four-hour replacement Services, Customer acknowledges that Fortinet shall have 30-days from the date of Product's Registration Date to stage replacement Product in a local depot ("Staging Period"). As such Customer's four hour replacement Services shall not commence until the end of such Staging Period.

5.5. Software/Firmware Updates. If Customer's Service Contract includes software/firmware updates, all official software and firmware maintenance releases and feature updates shall be included. Customer may access such updates via password-protected web access. Customer may install only one (1) copy of the upgrade per product covered by a Service Contract. Using software/firmware updates on more than one (1) Product (without having additional Service Contracts) is considered a material breach of and the parties shall work to true-up the account. Support shall be provided on the then-current major release of Product and the previous release of software. At Fortinet's option, Fortinet may provide technical assistance on older versions of a registered Product, but such services may be limited and are not guaranteed. Support Services do not include education/training-related services or professional services such as installation or network configuration. Training and/or other on-site services may be purchased in addition to Support Services, at the then-current standard rates.

5.6. Real-Time Updates. If the Customer's Service Contract contains Subscription Services, the Customer will have access to Fortinet's real-time Anti-Virus and Network Intrusion Detection System ("NIDS") updates that will protect the Customer against some of the latest network-based threats. These updates may either be pushed to properly configured and authorized Products, retrieved on a pre-scheduled basis, or retrieved manually by the Customer.

## **6. EXCLUSIONS**

6.1. General. Customer acknowledges that software and/or hardware is/are neither perfect nor error-free and that, despite commercially reasonable efforts, Fortinet may be unable to provide answers to, or be able to resolve, some or all requests for software or hardware support. The Services provided by Fortinet hereunder do not include warranty, support and/or maintenance for any third party software or hardware, whether or not such third party software or hardware is provided by Fortinet. Fortinet is not required to provide Services for problems arising from: (i) Customer's failure to implement all maintenance or features issued under these provisions; (ii) any alterations of or additions to the Products performed by parties other than Fortinet; (iii) accident, 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); or (iv) interconnection of the Products with other products not supplied by Fortinet.

6.2 On-Site Support Not Included. Support Services are strictly limited to telephone and electronic support. On-site professional services are available for purchase directly from Fortinet or through one of Fortinet's FortiPartners.

## **7. LICENSE**

All updates or upgrades to Software or Hardware provided for under this Agreement shall be deemed to be included within the Products and subject to the terms and conditions of Fortinet's EULA.

## **8. WARRANTY**

Except as expressly stated otherwise, maintenance releases, updates and upgrades provided hereunder are warranted for the remaining software warranty period of the original Product purchased, if any, as specified in Fortinet's EULA. Nothing herein shall be construed as expanding or adding to the warranty set forth in the EULA. In the event of a conflict between these terms and the EULA, the EULA shall govern. Fortinet cannot guarantee that every question or problem raised in connection with the Services will be addressed or resolved. EXCEPT FOR WARRANTIES CLEARLY AND EXPRESSLY STATED HEREIN, NOTWITHSTANDING ANYTHING TO THE CONTRARY, FORTINET MAKES, AND YOU RECEIVE, NO OTHER WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ARISING IN ANY WAY OUT OF, RELATED TO, OR HEREUNDER OR THE PROVISION OF MATERIALS OR SERVICES HEREUNDER, AND, TO THE EXTENT PERMISSIBLE BY LAW, FORTINET SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

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## **10. GENERAL PROVISIONS**

10.1. Survival of Terms. The terms contained herein which by their nature are intended to survive the termination shall do so.

10.2. Reserved.

10.3. Reserved.

10.4. Confidential Information. Customer may be exposed to certain information concerning the Products and Services including, without limitation, Maintenance Releases (regularly scheduled and released updates and upgrades to Software), Feature Releases (enhancements released through Fortinet's Product planning practices or through customer requests) and other Product, Service or business information, which is Fortinet's confidential or proprietary information (herein "Confidential Information"). The Customer agrees that during and after the term period, the Customer will not use or disclose to any third party any Confidential Information without the prior written consent of Fortinet, and Customer will use reasonable efforts to protect the confidentiality of such Confidential Information. The Customer may disclose the Confidential Information only to its employees as is reasonably necessary to perform under these provisions; provided that each such employee is under a written obligation of nondisclosure which protects the Confidential Information under terms substantially similar to those herein. This section shall not apply to Confidential Information made public by Fortinet.

10.5. Reserved.

10.6. No Waiver and Severability. Failure by Fortinet to enforce any provision herein will not be deemed a waiver of future enforcement of that or any other provision. The exercise by either party of any remedy under these provisions will be without prejudice to its other remedies under these provisions or otherwise. If for any reason a court of competent jurisdiction or an agreed-upon arbitrator finds any provision, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remainder of these provisions shall continue in full force and effect

10.7. Reserved.

10.8. Force Majeure. Fortinet shall be excused from performance to the extent performance is rendered impossible by strike, fire, flood, or orders or restrictions, failure of suppliers or any other reason where failure to perform is beyond Fortinet's reasonable control.