

Purchase and Subscription Agreement

This Purchase and Subscription Agreement ("Agreement") sets forth the terms and conditions under which Mist Systems, Inc. ("Mist") is willing to sell the Mist Access Points and grant access to the Mist Dashboard and other Products (as defined below) to customers ("Customer") (either directly or indirectly through a reseller or channel partner of Mist or its Affiliates) and Customer is willing to purchase such Products. Mist and Customer may be individually referred to as "Party" or collectively as "Parties". In consideration of the covenants and conditions set forth herein, Mist and Customer agree as follows:

BY USING THE MIST ACCESS POINTS, THE MIST DASHBOARD OR THE MIST DASHBOARD ADDITIONAL SERVICES, CUSTOMER ACKNOWLEDGES THAT (1) IT HAS READ THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS, AND (2) THE PERSON ACCEPTING THIS AGREEMENT HAS THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF THE CUSTOMER, AND TO BIND THE CUSTOMER TO THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THESE TERMS AND CONDITIONS, CUSTOMER MAY NOT USE THE MIST ACCESS POINTS, THE MIST DASHBOARD OR THE MIST DASHBOARD ADDITIONAL SERVICES. Provided, however, if Mist and Customer have entered into a written agreement governing the purchase of Mist Products ("Existing Agreement"), the terms of such Existing Agreement shall prevail to the extent this Agreement conflicts with such Existing Agreement. If Customer has purchased Products through a Mist reseller, then the terms of Customer's agreement with the reseller will prevail over the terms set forth in Section 2 and 7. To the extent that Customer and Juniper Networks, Inc. or any other Affiliates of Juniper Networks, Inc. (excluding Mist) have any existing or separate agreements currently or in the future, this Agreement shall not affect or modify such other agreements.

1. DEFINITIONS

"Affiliate" means any entity and its successors which directly or indirectly controls, is controlled by, or is under common control with the subject entity. **"Control"** for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity. An entity shall be considered an Affiliate only so long as such entity continues to meet the foregoing definition.

"Documentation" means the installation and operating instructions, user manuals, help files, 'README' files, training materials, and all specifications and technical information and materials provided by Mist to Customer.

"End Users" means Customer's employees, contractors, guests, invitees, or anyone else to whom Customer authorizes access to the Mist Access Points.

"Firmware" means the software embedded in the Mist Access Points.

"Mist Access Point" or **"Mist AP"** means the Mist manufactured wireless network access point purchased by Customer that is used to establish a wireless connection to a device (e.g. cell phone, laptop or other WiFi or BLE enabled device), and which is registered at a location designated by Customer, and enables Mist to provide the Mist Dashboard Services and Mist Dashboard Additional Services.

"Mist Dashboard" means the Mist cloud-based management console provided by Mist to Customer, pursuant to one (1) or more Purchase Orders. Mist Dashboard includes the WiFi Assurance Product.

"Mist Dashboard Additional Services" means the optional, additional features or services that Mist makes available for additional fees and are provided through the Mist Dashboard.

"Process" means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Products" means Mist APs (including the Firmware), the Mist Dashboard, the Documentation, the Mist Dashboard Additional Services, and any related equipment, including any appliances, routers and switches, brackets, and related support and maintenance services, as may be ordered by Customer and provided by Mist pursuant to one (1) or more Purchase Orders.

"Purchase Order" means a Customer issued purchase order that sets forth the Products ordered.

"Service Term" means the term of the subscription granted by Mist to Customer with respect to the Mist Dashboard. Service Terms are either one, three or five years unless otherwise agreed in writing by Mist and Customer.

"WiFi Assurance" means the Mist Dashboard service that allows Customer to deploy and manage Mist APs; obtain insight into the End User experience; and troubleshoot problems in the Customer's WLAN network.

2. MIST ACCESS POINT PURCHASE & DELIVERY

- 2.1. Purchasing.** Customer may initiate purchases of Mist Products by submitting a Purchase Order to Mist. If Mist has issued a quotation to Customer for the Products, Customer should include the quotation number on the Purchase Order. Any delivery dates stated in a Purchase Order are considered a request only and subject to confirmation in writing by Mist. If the quantity of Mist APs in the Purchase Order exceeds the quantity quoted, Mist reserves the right to confirm such additional quantity is available and adjust the dates of shipment as necessary to meet the higher quantity. Mist shall use commercially reasonable efforts to send a written confirmation (via email) of receipt of Purchase Orders within five (5) days from receipt and verify the shipping dates and other modifications, if any, to Customer's Purchase Order.
- 2.2. Shipping Terms.** Mist will ship to Customer the quantity of Mist APs ordered by Customer Ex-Works (Incoterms 2010) from the Mist factory or distribution center. The price of all Products, unless otherwise specifically stated in Mist's quotation or order acknowledgement, excludes the fees for shipment of the Mist APs to Customer's location. If requested by Customer, Mist will arrange for selection of a shipping company and shipment on Customer's behalf. Mist will include the shipping fees on the invoice to Customer. In the absence of shipping instructions from Customer, Mist reserves the right to select the means of transportation and routing. Unless otherwise advised, Mist will insure Mist APs to their full value or declare full value thereof to the transportation company and all shipping and insurance costs shall be for Customer's account. Destruction of, or damage to, Mist APs shall not release, reduce, or in any way affect Customer's obligation to pay for same. Mist will assist Customer will seeking recovery for any loss or damage to the Mist APs while in transit.
- 2.3. Risk of Loss and Title Transfer.** Unless otherwise agreed to in writing by Mist, title and risk of loss or damage shall pass to Customer upon delivery of the Mist APs to the transportation company at Mist's facility.
- 2.4. Cancellation.** Once accepted, Purchase Orders may not be cancelled without written approval from Mist. Except as set forth in this Agreement, there is no right of return for the Mist APs or right to cancel subscriptions to the Mist Dashboard.

3. INSPECTION OF HARDWARE

- 3.1. Inspection Rights.** Customer shall have the right to inspect the Mist APs upon delivery. Customer's exclusive remedy with respect to any defective or non-conforming Mist APs shall be to have Mist replace such defective or nonconforming Mist AP or credit Customer's account, whichever Mist may elect in its sole discretion. If Customer reports to Mist a defective Mist AP within 30 days of delivery, then Mist will ship to Customer an advance replacement at Mist's cost in exchange for the defective Mist AP delivered to Customer. To avoid additional charges, Customer must return the defective AP within 15 days of receipt of the replacement AP. If Mist finds that any Mist AP has been returned which is not defective or non-conforming, Mist may charge Customer a \$200 fee for testing and examination.

4. LICENSES

- 4.1. Firmware License.** The Mist APs contain the Firmware that is pre-installed or embedded in object code and is necessary for the proper functioning of the Mist APs. The Firmware is licensed to Customer, not sold. All Firmware is protected by U.S. copyright law and international treaties. Except where Customer is paying for a managed service from a managed service provider of Mist Products, Mist grants to Customer a non-exclusive, perpetual license to use the Firmware, in executable form, solely as embedded in the Products. Where Customer is paying for a managed service that allows only for the lease of the Mist AP, then Mist grants to Customer a non-exclusive, limited, term license to use the Firmware as installed in the Mist AP. Customer acknowledges that the Firmware contains proprietary rights of Mist, and, in order to protect such proprietary rights, Customer agrees not to disassemble, decompile or reverse engineer the Firmware nor permit any third party to do so, except to the extent such restrictions are prohibited by law. Mist reserves all rights and licenses in and to the Firmware not expressly granted to Customer.

4.1.1. All Firmware updates to the Mist APs will be automatically deployed, unless Customer elects (through the Mist Dashboard) not to receive automatic updates. Mist will make available release notes for every Firmware update and changes to the Mist Dashboard. Mist will provide advance notice of any Firmware updates that introduce significant new or different functionality.

4.2. Third-Party Software Licenses. The Products may contain or be provided with components which are licensed from third parties ("Third Party Code"), including components subject to the terms and conditions of "open source" software licenses ("Open Source Software"). To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification, or reverse engineering.

5. SUBSCRIPTION SERVICES

5.1. Mist Dashboard. During the Service Term, subject to Customer's compliance with the terms and conditions of this Agreement, including the payment of any applicable subscription fees, Mist will provide Customer access to the Mist Dashboard. Customer must purchase a subscription to a Mist Dashboard service (e.g., WiFi Assurance) for every Mist AP purchased by Customer. If Customer has purchased a Mist Dashboard Additional Service, Mist will provide Customer access to the Mist Dashboard Additional Service for the Service Term for that Additional Service.

5.2. Activation Codes. Following delivery of the Mist APs, Customer will be required to activate its subscription to the Mist Dashboard. Each Mist AP requires an activation code in order to manage the Mist AP from the Mist Dashboard. Mist will email to Customer's designated contact the Mist Dashboard activation codes. For any Mist Dashboard Additional Service that requires an activation code, Mist will email Customer the activation code which Customer will enter into the Mist Dashboard in order to activate the Mist Dashboard Additional Service. Mist may elect to make Mist Dashboard Additional Services available to Customer on a promotional basis for no additional fees. In this case, Mist reserves the right to cancel the Mist Dashboard Additional Service at any time. Customer may order Mist Dashboard Additional Services at any time.

5.3. User Credentials. Access to the Mist Dashboard is limited to individual employees, consultants or contractors of Customer who are provided a registered account by Customer, having an individual user identification name and password. Account names and passwords may not be shared. Customer is responsible for all access to the Mist Dashboard by its employees, consultants and contractors. Customer shall immediately notify Mist in the event that Customer becomes aware of any violation of the terms of this Agreement. In the event Customer becomes aware that the security of any user's login information has been breached, Customer shall immediately notify Mist of such breach and Customer shall immediately de-activate such account or change the account's login information.

5.4. Restrictions on Use. Customer will not, and will not permit any third party to (a) modify, copy, or otherwise reproduce the Products in whole or in part; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the code used in any Products and Services; (c) provide, lease or lend the Products to any third party except as expressly authorized in writing by Mist; (d) remove any proprietary notices or labels displayed on the Products; (e) modify or create a derivative work of any part of the Products; (f) use the Products for any unlawful purpose; (g) interfere with or disrupt the integrity or performance of the Products or third-party data contained therein; (h) attempt to gain unauthorized access to or breach the security mechanisms of the Products; (i) permit direct or indirect access to or use of any Products in a way that circumvents the authorized scope of use, as set forth in this Agreement; (j) access any Products in order to build a competitive product or service; or (k) interfere with, disrupt, alter, translate or modify the Products.

6. DATA AND SERVICES

6.1. Data. The Products enable Customer to Process information and data about: (a) the Mist APs and their configuration, use and performance; (b) devices that connect to the Mist APs; and, if applicable, (c) configuration, use and performance of network equipment or software connected to a Mist AP. This information and data may include, but is not limited to, data related to use of the Customer's Mist AP network, End User devices, such as device name, device type, operating system, MAC (media access control) address, Unique Device ID (UDID), IP address, application use, domain names and URLs accessed, type of content (e.g., video versus voice) and size (e.g., bytes) of content uploaded or downloaded, username, and location analytics data/geolocational information (collectively, "Device Data") as well as data concerning the Mist APs and, if applicable, network equipment or software connected to a Mist AP, such as configurations and signal strength (collectively, "AP Metadata") that is generally not tied to a particular End User. Device Data may also include the following:

6.1.1. PCAP (Packet Capture): When the Mist Dashboard detects a possible error in the operation of a Customer's Mist AP Network, the Mist Dashboard will automatically begin capturing data packets that travel to/from devices connected to the Mist AP, including the TCP packet header information, which may include the packet's source and destination address. In addition, Customer may also manually capture data packets through the Mist Dashboard, such as by configuring the size of the data packet to be captured and specifying a device MAC address. With such manual packet capture, the Customer may be able to view the actual contents of the data packet as well as the header information. In order to assist Customer with technical support issues, Mist may also manually capture data packets from Customer's Mist AP Network.

6.1.2. Captive Portal: Customer may elect to configure the Products to collect and share additional data, such as through a captive portal web page displayed to newly connected WiFi users before they are granted broader network access. Customer may configure the captive portal to request an end user input his/her name, email address, and other data fields that can be defined by Customer. The information designated by Customer for collection through the captive portal is passed directly to Customer and used only for purposes of 6.2.1, 6.2.2, and potentially, 6.2.6, 6.2.7 below.

6.2. Data Processing: Mist and Mist Affiliates Process Device Data and AP Metadata in order to:

- 6.2.1. provide the Products, including the Mist Dashboard and Mist Dashboard Additional Services to Customer and to allow Customer to monitor the use and performance of the Mist APs and exercise control over the traffic on Customer's network;
- 6.2.2. provide support, diagnostics and maintenance services for the Products;
- 6.2.3. provide analytics, including, if available, comparisons and benchmarks across devices or WiFi performance on an aggregated basis;
- 6.2.4. perform research, development, analysis, product testing and quality assurance on an aggregated basis;
- 6.2.5. prepare industry reporting and analysis of usage for informational and educational purposes;
- 6.2.6. protect Mist's rights or to enforce the terms of this Agreement; and
- 6.2.7. comply with lawful requests from Customer, End Users, law enforcement, national security agencies or other government regulatory authorities;

6.3. Customer Control. Using the settings offered in the Mist Dashboard, Customer may restrict Mist technical support personnel from seeing Customer's organizational data. If Customer elects to limit data sharing with, or data visibility, Mist may not be able to provide complete support and diagnostic services to Customer. Customer may make selections for certain AP and Dashboard configurations, in Customer's sole discretion. Customer is solely responsible for maintaining administrative control over Customer's account, systems and equipment and for Customer's selection of the level of encryption to use on Customer's wireless network (including if Customer elects to allow "open access").

6.4. End User Consents. Customer acknowledges and agrees that it is Customer's sole responsibility to provide notice to, and obtain all necessary consents from, End Users regarding the Processing of data in accordance

with this Agreement and for any additional Processing done by Customer or on Customer's behalf. Customer represents and warrants that Customer will comply with all applicable privacy and data protection laws and regulations regarding such data Processing.

- 6.5. Customer Consent.** By using the Products, Customer authorizes and licenses the Processing of Device Data and AP Metadata pursuant to this Agreement by Mist and its Affiliates and subprocessors (which include Mist's third party cloud hosting providers), including any such data collected by Mist under any prior agreements with Customer.
- 6.6. Data Retention.** Generally, Device Data and AP Metadata is stored for sixty (60) days after collection, but may only be available to the Customer through the Mist Dashboard for two weeks. Mist reserves the right to retain data for a longer period for the purposes set forth in Sections 6.2.6 and 6.2.7 above.
- 6.7. Data Processing Agreement.** Customer and Mist hereby agree to incorporate the Data Protection and Privacy Exhibit for Juniper Services, currently available at <https://www.juniper.net/assets/us/en/local/pdf/legal/data-protection-and-privacy-exhibit-for-juniper-services.pdf> (the "DPA") into this Agreement as Mist is an affiliate of Juniper Networks, Inc. For purposes of such DPA, Mist shall be deemed to be a "Data Importer" and Customer shall be deemed to be the "Data Exporter." The "Categories of data" in Appendix 1 of the DPA shall also include the Device Data and the AP Metadata (to the extent that any AP Metadata is deemed to be "personal data" under applicable laws or regulations). The "Processing operations" set forth in Appendix 1 of the DPA shall also include providing the Products under this Agreement and the purposes set forth in Section 6.2 above.
- 6.8. End User Requests and Disclosure.** To the extent reasonably possible, Mist shall notify the Customer of any End User data subject requests, complaints and inquiries (e.g., regarding the rectification, deletion and blocking of or the access to personal data, or any other rights data subject may have under applicable law) and shall provide assistance to the Customer to respond to such requests, complaints or inquiries in a timely manner. Taking into account the nature of the Processing, Mist shall assist the Customer by appropriate technical and organizational measures, insofar as reasonably possible, for the fulfilment of the Customer's obligations to respond to requests for exercising the End User data subject's rights under applicable law. Mist generally will not independently respond to such End User complaints, requests and orders without the Customer's prior approval, except where required by applicable law or where the End User is associated with more than one customer of Mist.
- 6.9. Data Export by Customer.** Customer is solely responsible for any export or transfer of any Device Data or any AP Metadata to any other Customer systems, devices, or software or to third parties or other platforms external to the Products and for any related Processing.
- 6.10. Data Security.** Mist shall maintain reasonable security measures, controls, procedures and written policies designed to: (1) protect Device Data and AP Metadata from unauthorized use, alteration, or disclosure; (2) protect the confidentiality and integrity of Device Data and AP Metadata; (3) prevent unauthorized access and unauthorized use of the Mist Dashboard; and (4) protect the Firmware and Mist APs from viruses, malware or malicious code. Such protection and prevention measures being designed to include the following:
- 6.10.1. reasonable restrictions regarding physical access to Mist's servers and cloud infrastructure and regarding electronic access to Device Data and the Mist Dashboard, including through secure user authentication protocols, secure access control methods, and firewall protection.
 - 6.10.2. Encryption of Device Data and AP Metadata during transit between the Mist AP and the Mist Dashboard and encryption of MAC address when at rest.
 - 6.10.3. use of a cloud hosting provider (as a sub-processor) that is SSAE 16, ISO 27001 and Type2 SOC2 certified (or equivalent), such as Amazon Web Services (AWS);
 - 6.10.4. use of assessment and monitoring tools;
 - 6.10.5. security review of Mist's cloud environment conducted periodically and, upon written request of Customer, provision to Customer of a report on the results of the last such periodic review.

7. FEES

- 7.1. Fees and Taxes.** Customer will pay the price for the Mist APs and subscription fees for the Mist Dashboard Services (and Mist Dashboard Additional Services, if applicable) as set forth in the quotation issued by Mist (or Mist authorized reseller) (together, the "Fees"). The Fees do not include Federal, State, Provincial or local sales, excise, use or other taxes applicable to the Products (excluding only taxes based on Mist's income). Applicable taxes will be added to the sales price if Mist has the legal obligation to collect the same and will be invoiced to and paid by Customer, unless Customer provides Mist with a proper tax exemption certificate. In the event Mist is required to pay any such tax, Customer shall promptly reimburse Mist.
- 7.2. Payment Terms.** Unless otherwise stated in Mist's quotation and order acknowledgement, Customer must pay for all Products at time of order. Upon reviewing Customer's credit status, Mist may offer payment terms of net 30 days from date of invoice. Mist reserves the right to require alternative payment terms based upon Customer's credit application. All amounts payable shall be invoiced and paid in United States Dollars and all payments shall be made to Mist at its office in Cupertino, California, or to such other location as Mist may designate in writing. Interest accrues on the unpaid balance of overdue invoices at a rate of one percent (1.0%) per month (or, if lower, the amount permitted by law) from the original due date of the invoice. Payment shall not be withheld for Customer's delay in installation of the Mist APs. In the event any invoices remain outstanding (and undisputed) for a period of thirty (30) days or more, Mist shall have the right upon ten days advance written notice to suspend access to the Mist Dashboard, delay shipment of any additional Mist APs and/or terminate this Agreement.

8. WARRANTY

- 8.1. Hardware Warranty.** Subject to the conditions set forth in Section 8.3, Mist warrants the Mist APs to be free from defects in material and workmanship and to perform in accordance with the Product Documentation for the longer of i) one year or ii) until Mist announces in writing the end of life for a specific model of the Mist AP except in the case of the AP61 Mist AP which is one (1) year from the date of delivery. Thereafter, and for as long as the Mist AP is subject to a Mist Dashboard Services subscription, Customer shall be entitled to receive the remedies set forth in Section 8.2.2 for any Mist AP that fails to conform to this warranty (except for the AP61). For a discontinued Mist AP model, the remedies are available for up to five (5) years from the announcement by Mist of the discontinuation of that AP model, and provided Customer maintains an active and continuous subscription to the Mist Dashboard Services for such Mist AP.
- 8.2. Hardware Warranty Remedies.**
- 8.2.1. For any Mist AP that fails to conform with the warranty set forth in Section 8.1, Mist will either repair or replace the defective AP. In the event Mist is unable to replace any defective Mist AP with a Mist AP that performs in accordance with this warranty, Customer has the right during the applicable warranty period to return the defective Mist AP and receive a refund of the price paid for the Mist AP less depreciation on a five-year straight-line basis. In addition, Mist will refund to Customer the fees for any unused subscription period for the Mist Dashboard Services and Additional Services.
- 8.2.2. Upon receipt of written notification from Customer of a defective or non-conforming Mist AP, Mist will confirm by remote diagnostics that such Mist AP requires replacement. If Mist determines that the Mist AP requires replacement, Mist will issue a Return Materials Authorization (RMA) form to Customer with instructions on how to return the Mist AP to Mist. Mist will promptly replace the Mist AP with the equivalent or substantially similar make and model. Mist will ship replacement Mist APs, at Mist's cost, to Customer. After the applicable warranty period, replacement units may be new or refurbished in Mist's sole discretion.
- 8.2.3. Customer must ship the Mist AP for which an RMA has been issued to Mist within thirty (30) days of the date of the RMA. Products must be returned to an authorized Mist service facility in the original packaging or packaging adequate for shipping. Customer will pay the shipping and transportation charges for the return of the defective Mist APs to Mist except with respect to a Mist AP that is delivered inoperable, damaged, and non-functioning and reported to Mist within 30 days of delivery, in which

case, Mist will send an advance replacement (at Mist's costs) and pay for return shipment of the defective or damaged Mist AP.

8.2.4. Any Mist APs returned to Mist pursuant to a valid RMA shall be subject to review and inspection by Mist upon receipt of such returned Products. If Mist determines that the defect is not covered by the warranty, Mist will invoice Customer for the costs of shipping the replacement unit.

8.2.5. This Section 8.2 sets forth Customer's sole right and remedy, and Mist's entire liability, for breach of the foregoing warranty.

8.3. Hardware Warranty Conditions. This warranty is conditioned upon proper use of the Mist APs, and (i) does not cover minor scratches to plastic surfaces and other externally exposed components, and (ii) will not cover: (a) defects or damage resulting from accident, unusual physical, electrical or electromechanical stress, modification of the Mist APs or any part thereof; (b) defects or damage from unauthorized or improper testing, operation, maintenance, installation, servicing or adjustment of the Mist APs. Opening the Mist AP enclosure or modification to the Mist AP will void the warranty.

8.4. Post Warranty Support. For as long as Customer maintains a subscription to the Mist Dashboard for Customer's Mist APs, Mist will respond to requests for technical support, and provide updates and bug fixes to the Firmware (subject to the Mist AP reaching its end of life). Upon expiration of the warranty period, Customer will continue to receive the remedies set forth in Section 8.2.2 for as long as Customer maintains a subscription to the Mist Dashboard Service for the Mist AP. In the event the Customer allows its subscription to lapse for more than thirty days, Customer will be required to renew and pay for its Mist Dashboard subscription from the date of expiration in order for the warranty to apply and for support services to be available. Mist will provide End of Life (EOL) notification for discontinued Hardware to Customer, either directly or through an announcement posted on the Mist website, at least 180 days in advance of the EOL date.

8.4.1. Customer may submit technical support requests through the Mist Dashboard or by email to Mist at support@mist.com. Customer may select the severity level of the technical problem being reported. Mist support hours are 8:00 am to 5:00 pm Pacific Time, but for Severity Level 1 issues, Mist provides a response 24X7. Mist will respond to Customer support requests based upon the severity level of the problem.

Severity	Definition	Response Time
Severity Level 1	Product is inoperable or its performance is so severely reduced that Product cannot be utilized. No workaround is available.	Mist responds in less than 1 hour and immediate escalation to Engineering if not resolved in 6 hours.
Severity Level 2	There is significant Product performance degradation, but a workaround is available	Mist responds in less than 4 business hours and escalation to Engineering if not resolved within 8 hours.
Severity Level 3	There is an issue or defect causing minimal business impact	Mist responds in less than 8 business hours and escalation to Engineering if not resolved within 5 days
Severity Level 4	Request for information; administrative requests	Mist responds in 24 hours or less.

8.5. Mist Dashboard Warranty. Mist warrants that it will provide the Mist Dashboard Service and Additional Services:

8.5.1. in substantial conformance with the Documentation; and

8.5.2. with the degree of skill and care reasonably expected from a skilled and experienced supplier of services substantially similar to the nature and complexity of the Mist Dashboard Services (and Additional Services, if applicable).

8.6. Mist Dashboard Warranty Remedy. Customer's sole and exclusive remedies and Mist's entire liability for breach

of the warranty under Section 8.5 will be:

- 8.6.1. the reperformance of the deficient Mist Dashboard Service or Additional Services, as applicable, and
- 8.6.2. if Mist fails to re-perform, Customer may terminate its subscription for the affected Mist Dashboard Service or Additional Service and accept a pro-rata refund of the Mist Dashboard and/or Additional Service subscription fees for any unused period of the cancelled Service Term. Any termination must occur within three months of Mist's failure to re-perform.

8.7. Disclaimer. EXCEPT TO THE EXTENT EXPRESSLY PROVIDED ABOVE IN SECTION 8.1 AND 8.5, MIST EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, AND STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR OR SPECIFIC PURPOSE, ACCURACY, AND QUIET ENJOYMENT.

9. INDEMNIFICATION

9.1. Indemnity from Mist Systems. Mist will defend any suit brought against Customer to the extent it is based on a third-party claim that the Products sold to Customer infringes any U.S. patent or copyright, and will pay all damages and costs that a court finally awards against Customer as a result of such claim, provided that Customer gives Mist (i) prompt written notice of such suit within 30 days of the receipt of same, and furnishes Mist with a copy of all communications, relating to the claim; (ii) at the time notice of such claim is delivered to Mist, sole control over the defense and settlement of the claim and (iii) all reasonable information and assistance in the defense effort. In no event shall Mist be liable to indemnify Customer for any settlement entered into without Mist' prior written consent.

9.1.1. Should the Product become, or in Mist's opinion, be likely to become, the subject of a claim of infringement of a U.S. patent or copyright, Mist may, at its option, either: (A) procure for Customer the right to continue using the Product, or (B) replace or modify the Product to make it non-infringing. If neither of the foregoing alternatives is commercially available to Mist, then Mist will grant Customer a refund for (a) the purchase price paid by Customer of the relevant Hardware Product depreciated on a five-year straight-line basis and accept return of the relevant Hardware; and (b) for the subscription fees for the remaining, unused period of the then current Service Term.

9.1.2. Notwithstanding the foregoing, Mist shall have no liability for, and Customer shall indemnify Mist against, any claim to the extent it is based upon or arising out of, in whole or in part, (I) alteration or modification of the Product which was not approved by Mist, (II) combination, operation or use of the Product with any hardware, software or other device not furnished by Mist if such claim would not have arisen had such combination, operation or use not occurred and (III) any product or service not provided by Mist; (IV) Mist's compliance with Customer's specifications, designs or instructions; (V) Customer's failure to promptly implement an update or modification to the Product (e.g., install a Firmware release) provided by Mist; (VI) use of the Product in a manner other than which it was designed or in a manner other than as specified by Mist.

9.2. THIS INFRINGEMENT INDEMNITY SET FORTH IN THIS SECTION STATES MIST'S ENTIRE LIABILITY AND OBLIGATION, AND CUSTOMER'S SOLE REMEDY FOR ANY CLAIM OF INFRINGEMENT OF A THIRD PARTY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS.

10. LIMITATION OF LIABILITY

10.1. MIST SYSTEMS' LIABILITY ARISING OUT OF THIS AGREEMENT AND/OR SALE OF THE PRODUCTS SHALL BE LIMITED TO THE GREATER OF \$100,000 OR THE AMOUNTS PAYABLE UNDER THE AGREEMENT BY THE CUSTOMER FOR THE PRODUCTS UP TO A MAXIMUM OF \$2,000,000. IN NO EVENT SHALL MIST HAVE ANY LIABILITY FOR ANY LOST PROFITS, LOSS OF DATA OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM THE USE OF SYSTEMS PURCHASED

HEREUNDER, OR THE FAILURE OF THE SYSTEMS TO PERFORM, OR FOR ANY OTHER REASON. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11. TERM AND TERMINATION

11.1. Term. This Agreement shall commence upon the date Mist accepts Customer's initial Purchase Order in writing. The Service Term will begin upon the last to occur of either a) the invoice date, or b) shipment of Mist APs and delivery by email of the activation codes to the Mist Dashboard (which in most cases will be simultaneous). Each Service Term will renew automatically for additional one-year Service Terms unless Customer notifies Mist in writing that Customer is cancelling its subscription at least ten (10) days before the renewal date. The Service Term includes any renewals for the Mist Dashboard services. This Agreement will terminate on the expiration or cancellation of all Service Terms for all Mist APs.

11.2. Termination. Either Party may terminate this agreement for cause upon thirty (30) days' written notice to the other Party of a material breach of this Agreement if such breach remains uncured at the expiration of such period. Mist may suspend Customer's use of the Mist Dashboard at any time if Mist reasonably believes that Customer has breached the terms of Section 7.2; and if such breach remains uncured for 10 days following receipt of notice from Mist, then Mist may terminate this Agreement immediately. If Customer terminates this Agreement for cause, Customer will receive a refund of any prepaid fees equal to the prorated Mist Dashboard fees for the remainder of the Service Term.

11.3. Survival. Upon any termination of this Agreement, Sections 6, 10 and 12 will survive any termination of this Agreement.

12. CONFIDENTIALITY

12.1. Disclosure of Information. The parties acknowledge that they may receive from each other and have access to certain confidential information of the other party ("Confidential Information"), including confidential information about the business plans, customers, personnel, financial data, technology or products of the other party. Information shall be considered Confidential Information if it is labeled as confidential or proprietary or, if supplied as an oral disclosure, is stated at the time of disclosure to be confidential or proprietary. The parties agree that Software and Documentation shall be deemed Mist's Confidential Information under this Agreement. The parties agree not to use the other's Confidential Information for any purpose except as contemplated by this Agreement. The use and access to Confidential Information shall be limited by the parties to their employees who need to know such Confidential Information for the purpose of carrying out the parties' respective obligations under the Agreement and the parties shall similarly bind these employees to abide by the terms of this Section 12 in writing. Confidential Information may include confidential, proprietary and/or trade secret information which is owned by third parties, which have granted sufficient rights to the parties to permit the parties to provide Confidential Information to each other hereunder. Customer shall not remove any proprietary, copyright, mask work, trade secret or other legend from any System or Confidential Information. The Parties shall, upon the termination of this Agreement, certify the destruction of or return to the other party all tangible manifestations of Confidential Information received from such parties pursuant to this Agreement (and all copies and reproductions thereof).

12.2. Nothing in this Agreement shall prohibit or limit either party's use or disclosure of the U.S. Federal income tax treatment and U.S. Federal income tax structure of any transaction contemplated by this Agreement and all materials of any kind (including opinions or other tax analyses) that are provided to it relating to such tax treatment or tax structure, except where confidentiality is necessary to comply with applicable federal or state securities laws.

12.3. Exclusions. The restrictions contained in this Section 12 a) shall not apply to Confidential Information to the extent such information (i) is known to the recipient at the time of disclosure; or (ii) is independently developed by the recipient provided the recipient can show that such development was accomplished by or on behalf of the recipient without the use or any reference to Confidential Information or breach of this Agreement; or (iii)

becomes known to the recipient from any source without confidentiality restriction on subsequent disclosure or use; or (iv) is or becomes part of the public domain through no wrongful act of the recipient. A party shall also have the right to disclose Confidential Information pursuant to any binding judicial or governmental requirement or order; provided that it takes reasonable steps to give the other party sufficient prior notice in order to contest such order or seek protective measures.

12.4. Injunctive Relief. In the event of a threatened or actual breach of this Section 12, the non-breaching party shall be entitled to seek immediate injunctive or other equitable relief, in addition to, and not in lieu of, any other remedies such party may be entitled to.

12.5. Statement of Product Direction. Mist Systems and its Affiliates may disclose information related to development and plans for future products, features or enhancements ("SOPD"). SOPD information is subject to change at any time, without notice. Mist Systems provides no assurances, and assumes no responsibility, that future products, features or enhancements will be introduced. Company acknowledges that: a) its purchasing decisions are not being made based upon reliance of timeframes or specifics outlined in the SOPD, and b) purchasing decisions would not be affected if Mist Systems (or its Affiliates) delays or never introduces the future products, features or enhancements.

13. OTHER TERMS

13.1. Compliance with Laws; Export Requirements. Customer shall comply with all applicable laws and regulations. Customer acknowledges and agrees that it and Mist are subject to regulation by agencies of the United States Government, including the U.S. Department of Commerce and Defense, which prohibits export or diversion of the Systems to certain countries. Regardless of any disclosure made by Customer to Mist of an ultimate destination of the Systems, Customer warrants that Customer will not export, either directly or indirectly, any Systems without first obtaining any and all necessary approvals from the U.S. Department of Commerce or any other agency or department of the United States Government is required.

13.2. Mist Ownership and Trademarks. Customer acknowledges and agrees that Mist retains all of its right, title, and interest in and to the worldwide intellectual property rights in the Products. All rights not expressly granted to Customer in this Agreement are expressly reserved by Mist. Neither Party will use the other Party's name or trademarks without written consent.

13.3. Disposition of Mist APs. Customer may (directly or indirectly) sell, transfer, or otherwise convey title to its Mist APs only with the prior written consent of Mist and in connection with a merger, acquisition of all or substantially all of Customer's business, corporate reorganization, or change in control. Otherwise, any resale, transfer or assignment of the Mist APs will void the access rights to the Mist Dashboard.

13.4. Entire Agreement. The terms and conditions contained in this Agreement, Mist's quotation and order acknowledgement, constitute the entire agreement between the parties and supersede all previous and/or contemporaneous agreements and understandings, whether oral or written, between the parties hereto with respect to the subject matter of this Agreement, including but not limited to any preprinted terms on purchase orders, invoices, advertising and sales literature. .

13.5. Governing Law. This Agreement shall be interpreted and governed by the laws of the State of California without reference to its conflict of laws principles. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to this Agreement. For any disputes arising out of this Agreement, the parties consent to the personal and exclusive jurisdiction of, and venue in, the state and federal courts within Santa Clara County, California.

13.6. Force Majeure. Except for Customer's payment obligations, neither party will be responsible for any failure to perform due to causes beyond its reasonable control.

13.7. Assignment. Customer may not assign or delegate or otherwise transfer its licenses, rights or duties under this Agreement except with prior written consent of Mist. Any prohibited assignment will be void. Mist may

assign this Agreement in its entirety (including all Order Forms), without the Customer's consent to its Affiliate. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties thereto and successors and assigns.

13.8. Notices. All notices ("Notices") shall be in writing and delivered by personal delivery, by certified or registered mail, return receipt requested or by a recognized overnight delivery service. Any such Notices shall be considered given upon receipt, as confirmed by the delivery confirmation record. All Notices shall be sent to the respective address as may be specified by either party to the other in writing. Customer will send any notices to Mist Systems as follows: Juniper Networks, Inc., Attn: General Counsel, 1194 North Mathilda Avenue, Sunnyvale, CA 94089-1206 Telephone: 408.745.2000.

13.9. Prevailing Party. In any suit or proceeding relating to this Agreement the prevailing party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal.

13.10. Amendment; Waiver. Neither modification to this Agreement, nor any waiver of any rights shall be effective unless assented to in writing by the party to be charged and the waiver of any other right hereunder or any subsequent breach or default.

13.11. Severability. If any portion of this Agreement is held invalid, the parties agree that such invalidity shall not affect the validity of the remaining portions of this Agreement, and the parties shall seek in good faith to agree to substitute for the invalid provision a valid provision that most closely approximates the economic effect and intent of the invalid provision.

13.12. Counterparts. This Agreement may be signed in counterparts each of which shall be deemed an original and together shall constitute one and the same agreement.