

TRADE-UP PROGRAM

General Terms and Conditions

CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BETWEEN FORTINET AND THE AUTHORIZED DISTRIBUTORS AND ELIGIBLE RESELLERS PARTICIPATING IN THE PROGRAM. ANY AUTHORIZED DISTRIBUTOR AND/OR ELIGIBLE RESELLER PARTICIPATING IN THE PROGRAM AGREE TO BE BOUND BY AND ACCEPT THESE TERMS AND CONDITIONS. IF THE AUTHORIZED DISTRIBUTOR AND/OR ELIGIBLE RESELLER DO NOT AGREE TO THESE TERMS AND CONDITIONS, FORTINET EXPLICITLY ADVISES THE AUTHORIZED DISTRIBUTOR AND/OR ELIGIBLE RESELLER NOT TO PARTICIPATE IN THE PROGRAM. THE AUTHORIZED DISTRIBUTOR AND/OR ELIGIBLE RESELLER REPRESENT TO HAVE READ AND UNDERSTOOD THESE TERMS AND CONDITIONS AND HAVE HAD SUFFICIENT OPPORTUNITY TO CONSULT WITH COUNSEL PRIOR TO ACCEPTING THE TERMS SET OUT HEREIN. FORTINET SHALL NOT BE BOUND BY ANY ADDITIONAL, INCONSISTENT, AND/OR CONFLICTING PROVISIONS IN ANY ORDER, RELEASE, ACCEPTANCE OR OTHER CORRESPONDENCE (INCLUDING WITHOUT LIMITATION ANY COMMERCIAL BROCHURE) UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY FORTINET'S GENERAL COUNSEL, AND IN NO EVENT SHALL FORTINET BE DEEMED TO HAVE ACCEPTED ANY TERMS IN YOUR PURPORTED OFFER OR OFFER DOCUMENTS.

1. DEFINITIONS

Authorized Distributor	shall mean an independent third party acting in its own name and account that is authorized by Fortinet (and properly registered with Fortinet as a Fortinet distributor) to sell, within their authorized Territory, Fortinet's Products purchased from Fortinet to a Fortinet authorized reseller (including without limitation an Eligible Reseller).
End-Customer	shall mean a lawful owner, within the Territory, of an Eligible Product unit properly registered in its own name with Fortinet, excluding Authorized Distributors and Fortinet's authorized resellers (including without limitation Eligible Resellers).
Eligible Reseller	shall mean an independent third party acting in its own name and account that is authorized by Fortinet and properly registered with Fortinet as a Fortinet's authorized reseller to: (a) resell Fortinet's Products, purchased from a Fortinet Authorized Distributor, to an end-customer within their authorized Territory; and (b) participate in the Program.
Eligible Product	shall mean a Fortinet's Product eligible under Section 4(1) of these Terms and Conditions.
EULA	shall mean Fortinet's then-current End-User License Agreement which is available at http://www.fortinet.com/doc/legal/eula.pdf , or at any other website as designated by Fortinet.
Fortinet	shall mean Fortinet, Inc.

Fortinet's

Product shall mean any hardware or software products identified in the Fortinet's applicable then-current price list.

Fortinet's Trade-Up List shall mean the official Trade-Up list published by Fortinet at <https://partnerportal.fortinet.com> (or at any other website as designated by Fortinet) setting out: (a) the Eligible Products pursuant to subsection 4(1)(ii) of these Terms and Conditions; (b) the Fortinet's Products excluded from the Program pursuant to section 4(2) of these Terms and Conditions; and (c) the corresponding Replacement Products that are suitable for benefiting from the trade-up discounts under this Program.

Program shall mean Fortinet's Trade-Up Program.

Replacement Product shall mean a specific Fortinet's Product identified in the Fortinet's Trade-Up List as suitable for trade-up purpose with a corresponding Eligible Product.

Territory shall mean the specific geographic area that the Authorized Distributor(s) and Eligible Reseller(s) are permitted by

Fortinet to sell Fortinet's Product to End-Customers. No modification of the Authorized Distributor's and/or Eligible

Reseller's Territory is granted or permitted under this Program.

Terms and Conditions shall mean the General Terms and Conditions for the Fortinet's Trade Up Program.

2. SCOPE

This Program aims at providing incentives for End-Customers to substitute their existing Eligible Products units with the corresponding Replacement Products as identified in the Fortinet's Trade-Up List, by offering discounts on Replacement Products units to Authorized Distributors as established herein.

3. APPLICABLE TERMS

3.1. Fortinet is the manufacturer of the Fortinet's Products that are sold through a two-tier distribution channel of Authorized Distributors and resellers. As such, under this Program or otherwise, Fortinet does not supply Fortinet's Products to the Eligible Reseller and/or End-Customer and no sales relationship shall be established between Fortinet and the Eligible Reseller and/or the End-Customer, unless otherwise agreed to in writing by Fortinet's General Counsel.

3.2. The purchase and sale of the Replacement Products by the Authorized Distributor and Eligible Reseller shall be governed by, respectively, the distributor and reseller agreements entered into with Fortinet. These agreements shall not be modified in any respect as a result of Authorized Distributor's and Eligible Reseller's participation in this Program.

4. ELIGIBLE PRODUCTS

4.1. The discounts offered to the Authorized Distributor under this Program are exclusively available for End-Customer's trading up Eligible Products units for the purchase, at a discounted price from an Eligible Reseller, of the corresponding Replacement Products as identified in the Fortinet's Trade-Up List. At the time of the submission of the trade-up application, the Eligible Products must meet the following conditions:

(a) The Eligible Product shall either: (i) have been announced End-of-Order by Fortinet through its support portal at: <https://partnerportal.fortinet.com/prm/English/c/fortinet-engage-tradeup-program-matrix>; or (ii) benefit from an exception for products not eligible under subsection 4(1)(i), as granted by Fortinet at its entire discretion from time-to-time in Fortinet's Trade-Up List; and

(b) A fully paid support service contract validly registered against Eligible Product unit shall be active or have expired within the last twelve (12) months.

4.2. Fortinet reserves its exclusive right to add, exclude or withdraw any Fortinet's Products from the Program and to revise the Fortinet's Trade-Up List from time-to-time at its sole discretion. For avoidance of doubt, only those products included in Fortinet's Trade-Up List, currently located at: <https://partnerportal.fortinet.com/prm/English/c/fortinet-engage-tradeup-program-matrix>, are eligible for this Program.

4.3. An Eligible Product unit may only be traded-up once and for a single Replacement Product unit in accordance with the Fortinet's Trade-Up List. Any attempt to use the same Eligible Product unit for more than one trade-up application is considered a material breach of these Terms and Conditions.

5. REPLACEMENT PRODUCTS

5.1. The Replacement Product units are shipped subject to the terms of the EULA, which sets forth both the authorized usage and the manufacturer warranty terms.

5.2. The correspondence between a particular Eligible Product and a Replacement Product in the Fortinet's Trade-Up List shall not be construed as a technical recommendation by Fortinet. The End-Customer shall assess the suitability of the Replacement Product on the basis of the official Replacement Product technical specifications (as published in the then current official product datasheet) and of its own network security needs. Fortinet shall not be liable against the End-Customer or any other party resulting from the selection and purchase of the Replacement Product.

6. TRANSFER OF SERVICES

If not expired, the End-Customer shall benefit from the transfer of the validly registered and fully paid support service subscriptions from the Eligible Product unit to the Replacement Product unit for the remaining term of the support service subscription, subject to the Replacement Product unit being purchased, paid in full, and validly registered with Fortinet. For clarity, this is an explicit exception to the general rule that support service subscriptions cannot be transferred to another device once registered to a particular device. This transfer shall only apply to hardware products.

7. DISCOUNTS

7.1. Upon presentation of an Eligible Product that has not been previously traded-up, as evidenced by the products registrations number, Fortinet shall offer applicable discounts to its Authorized Distributor purchase, that is based on the purchase orders from an Eligible Reseller for the Replacement Products under this Program.

7.2. Fortinet does not and cannot interfere in the pricing negotiated between, respectively, an Authorized Distributor and an Eligible Reseller or between an Eligible Reseller and the End-Customer. Any discounts offered on the Replacement Products to the Eligible Reseller and/or End-Customer are manufacturer non-binding discounts recommendations. For the avoidance of doubt, the final quote shall solely be obtained, as the case may be, from an Authorized Distributor of the Eligible Reseller's choice or from an Eligible Reseller of the End-Customer's choice.

7.3. Fortinet reserves the right to cancel a trade-up application and to refuse to grant the discounts to the Authorized Distributor in the event of a breach of these Terms and Conditions or in absence of payment of the Replacement Product unit by the Authorized Distributor, the Eligible Reseller, or the End-Customer.

8. LICENSE TERMINATION AND DISPOSAL

8.1. The End-Customer is not required to return the Eligible Product unit to Fortinet but the trade-up of the Eligible Product for the Replacement Product by the End-Customer terminates the license to use the Fortinet proprietary software preinstalled or embedded on the Eligible Product as granted under the EULA, upon the earlier of the transfer of the service to the Replacement Product, or upon expiration of the original service contract. Any Eligible Product traded-in under this Program will not be eligible for RMA services.

8.2. Authorized Distributors are required to comply with in full with all the obligations set out in the Waste Electrical and Electronic Equipment Directive and other environmental laws as agreed in the distributor agreement between Fortinet and the Authorized distributor, including without limitation in relation to the treatment, recycling, recovery and disposal of the Eligible Product units, if requested by the End-Customer.

9. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANYTHING TO THE CONTRARY, FORTINET SHALL NOT BE LIABLE TO THE AUTHORIZED DISTRIBUTOR OR THE ELIGIBLE RESELLER WITH RESPECT TO ANY SUBJECT MATTER OF THIS PROGRAM OR RELATED TO THIS PROGRAM, UNDER ANY CONTRACT, NEGLIGENCE, INDEMNIFICATION, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR: (I) ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED; OR (II) DAMAGES FOR WORK STOPPAGE, LOST PROFITS OR LOST DATA; OR (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. IN NO EVENT SHALL FORTINET'S TOTAL LIABILITY UNDER THIS AGREEMENT OR RELATED TO THIS AGREEMENT, UNDER ANY CONTRACT, NEGLIGENCE, INDEMNIFICATION, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE AMOUNT ACTUALLY RECEIVED BY FORTINET AS A RESULT OF ORDERS PLACED FOR REPLACEMENT PRODUCTS DURING THE THREE (3) MONTHS PRECEDING AND ONLY IN CONNECTION WITH THE EVENT WHICH GAVE RISE TO SUCH FORTINET LIABILITY.

10. FLOW DOWN AND MODIFICATION

10.1. Eligible Resellers shall flow down these Terms and Conditions on a manner relevant to the End-Customer, in particular but not limited to, the termination of the software license of the Eligible Products as stated above.

10.2. Fortinet reserves its right to modify any aspect of or to withdraw in its entirety from the Program at any given time without prior notice. The Authorized Distributor, End-Customer, or Eligible Reseller shall not be entitled to claim any accrued rights with respect to the Program to the extent that said program has been modified or terminated.

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