

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

21-419

SAP Number

N/A

### Assessor-Recorder-County Clerk

<b>Department Contract Representative</b>	Tim Gaeta, Departmental IS Administrator
<b>Telephone Number</b>	(909) 382-3240
<b>Contractor</b>	Ruckus Wireless, Inc.
<b>Contractor Representative</b>	N/A
<b>Telephone Number</b>	N/A
<b>Contract Term</b>	5/18/2021 through 5/17/2024
<b>Original Contract Amount</b>	N/A
<b>Amendment Amount</b>	N/A
<b>Total Contract Amount</b>	N/A
<b>Cost Center</b>	N/A

**Briefly describe the general nature of the contract:** *This General Terms and Conditions for Support and Services Agreement will enable ARC to receive hardware support services from Ruckus Wireless, Inc. for five network switches located at the Hall of Records.*

**FOR COUNTY USE ONLY**

Approved as to Legal Form

▶ Bonnie Uphold  
Bonnie Uphold, Deputy County Counsel

Date 5-27-21

Reviewed for Contract Compliance

▶ \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

▶ CK WILKIE FOR BOB DUTTON  
Bob Dutton, Assessor-Recorder-County Clerk

Date 5-27-2021



## Ruckus Wireless General Terms & Conditions for Support & Services

These General Terms & Conditions for Support & Services ("Service Terms") are entered into upon submission of an Order (defined below) to Ruckus Wireless, Inc., a Delaware corporation, having its principal place of business at 350 West Java Drive, Sunnyvale, CA 94089 ("Ruckus") by any entity (the "Customer") purchasing technical support or consulting services from Ruckus (directly or through an authorized reseller).

### 1. Definitions.

"**Deliverables**" means any computer code or materials, other than Products or Releases, that Ruckus provides to Customer during provisioning Services.

"**Error**" means a material defect in the Product resulting in a failure of the Product to perform the functions specified in the Documentation.

"**Order**" means any purchase order, firm order or similar document accepted by Ruckus for the purchase of goods and Services described herein.

"**Product**" means (i) any combination of physical hardware components, embedded or standalone software ("Licensed Programs") furnished by Ruckus and the related technical manuals published by Ruckus ("Documentation") or (ii) Services.

"**Release(s)**" means error corrections, bug fixes, upgrades or product modifications that Ruckus makes available to Customer as part of support Services.

"**Services**" means all support, consulting and other services or advice provided to Customer under the terms and conditions of these Service Terms.

"**Software License Agreement**" shall mean the agreement located at <http://support.ruckuswireless.com/warranty>

"**Use**" means to reproduce, install, run, display or otherwise interact with for purposes of using a Product.

### 2. Services Descriptions

**2.1 Support.** The scope of support Services provided shall be defined by the support offering purchased by Customer, as set forth in the applicable Order. The descriptions for each offering shall be found at <http://support.ruckuswireless.com/programs>. All support Services shall be provided in English. All Services not included within the description of the applicable support Service, shall be deemed consulting Services as described in Section 2.2.

**2.2 Consulting.** All consulting Services shall be provided to Customer on a time and material basis, except as otherwise agreed in writing by Ruckus. Each consulting day shall consist of eight (8) hours, unless local labor law requires a shorter work day in the jurisdiction in which the Services are delivered. Ruckus' ability to deliver the Services depends upon Customer's full and timely cooperation, as well as the accuracy and completeness of any information Customer provides.

### 3. License.

**3.1 Releases & Deliverables.** Ruckus grants Customer a non-exclusive, non-sublicensable license to Use Releases and Deliverables in conformance with the Documentation provided with the Product

with which such Release or Deliverable is provided. Such license to Use is subject to all terms and conditions of the Software License Agreement in effect as of the date of delivery of the Release between Ruckus and Customer. Releases and Deliverables may not be redistributed to any third party. Releases may only be distributed onto Products that are subject to a current support Services Order and Deliverables may be subject to additional use limitations as set forth in the applicable Order for Services.

**3.2 Reservation of Rights.** The licenses to the Releases & Deliverables are conditioned upon Customer's compliance with the terms of these Service Terms and the applicable Order. All rights not expressly granted are reserved. Customer may not reverse engineer, decompile or disassemble Products, Releases or Deliverables, except to the extent expressly permitted by applicable law despite this limitation. Products, Releases and Deliverables licensed under these Service Terms (including any license or Services agreement incorporating these terms) are subject to U.S. export jurisdiction. Customer must comply with all domestic and international export laws and regulations that apply to the Products, Releases and Deliverables. Any use restrictions will survive termination or expiration of these Service Terms or an Order. Ruckus may use any technical information Ruckus derives from providing Services, including any feedback from Customer sent directly or indirectly to Ruckus, related to Ruckus' Products for problem resolution, troubleshooting, product functionality enhancements and Releases for Ruckus' knowledge in developing and supporting Ruckus' Products. Ruckus shall not be restricted from any future development of its Products or Services for any reason hereunder. Ruckus agrees not to identify Customer or disclose any of Customer's confidential information in any item Ruckus maintains for this knowledge base.

**4. Fees.** In the event that Customer purchases Services directly from Ruckus, Customer agrees to pay Ruckus (or Ruckus' designees) the fees described in each Order. Services fees are exclusive of any travel and expenses, which shall be the responsibility of Customer and invoiced hereunder. Unless otherwise stated in an Order, (i) Customer agrees to pay within 45 calendar days of the date of Ruckus' invoice and (ii) Ruckus will not change Ruckus' rates identified in an Order during its initial term, but Ruckus may adjust Ruckus' rates prior to entering any new Order or upon renewal of any existing Order. Ruckus' fees exclude any fees for Products and any taxes, duties, tariffs, levies or other governmental charges or expenses (including, without limitation, any value added taxes), which will be invoiced to and paid by Customer. Ruckus is responsible for taxes based upon Ruckus' personal property ownership and net income. Ruckus may, at Ruckus' option, assess a finance charge of the lesser of 18% per annum, accrued, calculated and payable monthly or the highest amount allowed by law on all past due amounts. Ruckus will have no obligation to continue to provide Services if Customer fails to make timely payment. For services purchased through an authorized Ruckus Reseller, the Reseller and Customer shall execute a separate payment arrangement, provided that Ruckus may at any

time suspend the provisioning of services unless it receives a valid payment for such support.

**5. Supported Configurations.** Ruckus may add support for new Products or discontinue support for existing Products from time to time. If Ruckus discontinues support for a product, Ruckus will give Customer prior notice in accordance with Ruckus' end-of-support ("EOS") policy, which is available on the support portal. If Customer's implementation of Ruckus' Products is inconsistent with Ruckus' documentation, it may not be effectively supported. As part of providing the support Services, Ruckus will notify Customer if Ruckus reaches that conclusion. If Customer does not modify the implementation to conform to Ruckus' guidelines within 30 days after the notice, Ruckus will not be obligated to provide additional support Services for that implementation, however Ruckus will continue to provide support for Customer's other supportable implementations covered by the Order.

**6. Warranty.** Ruckus warrants that all Services will be performed with professional care and skill. In the event that Ruckus violates the terms of this warranty, Ruckus's sole liability and Customer's sole remedy is Ruckus' re-performance of the applicable Services in conformance with the warranty provided the following: (a) Ruckus must be informed by Customer of any claims of non-conforming support Services no later than thirty (30) days from the first date of any event giving rise to the claim of non-conformance and (b) Ruckus must be informed by Customer of any claims of non-conforming consulting Services no later than thirty (30) days from the date of delivery of the applicable Services. For the avoidance of doubt, re-performance of support Services will not extend the period of support.

**7. NO OTHER WARRANTIES.** EXCEPT AS SET FORTH IN SECTION 6, RUCKUS MAKES NO WARRANTIES, REPRESENTATIONS OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE AND TO THE EXTENT ALLOWED BY APPLICABLE LAW, RUCKUS AND ITS SUPPLIERS HEREBY SPECIFICALLY DISCLAIM ALL OTHER EXPRESS, IMPLIED, STATUTORY AND OTHER WARRANTIES, REPRESENTATIONS AND CONDITIONS INCLUDING WITHOUT LIMITATION THOSE ARISING FROM A COURSE OF DEALING, LAW, USAGE OR TRADE PRACTICE AND THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND SATISFACTORY QUALITY. EXCEPT AS EXPRESSLY SET FORTH IN THE WARRANTY, ALL PRODUCTS, LICENSED PROGRAMS, RELEASES, DELIVERABLES AND DOCUMENTATION ARE LICENSED ON AN "AS IS" BASIS WITHOUT WARRANTY. RUCKUS AND ITS SUPPLIERS DO NOT WARRANT THAT (A) THE OPERATION OF THE PRODUCTS, RELEASES OR DELIVERABLES SHALL BE UNINTERRUPTED OR ERROR FREE; (B) THE PRODUCTS, RELEASES, OR DELIVERABLES, SHALL MEET THE CUSTOMERS' REQUIREMENTS; (C) THE PRODUCTS, RELEASES, OR DELIVERABLES SHALL OPERATE IN COMBINATIONS AND CONFIGURATIONS SELECTED BY THE CUSTOMER OR (D) ANY LICENSED PROGRAM ERRORS SHALL BE CORRECTED. THE DISCLAIMERS AND EXCLUSIONS OF THIS SECTION SHALL APPLY EVEN IF THE EXPRESS LIMITED WARRANTIES MADE BY RUCKUS FAIL THEIR ESSENTIAL PURPOSE.

**8. Limitation of Liability.** NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THESE SERVICE TERMS TO THE CONTRARY, ALL LIABILITY OF RUCKUS AND ITS SUPPLIERS FOR CLAIMS ARISING UNDER THESE SERVICE TERMS OR OTHERWISE, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY, EQUITY OR ANY OTHER THEORY OF LIABILITY, SHALL BE LIMITED TO THE GREATER OF (A) ONE THOUSAND UNITED STATES DOLLARS (\$1,000) OR (B) AMOUNTS PAID BY CUSTOMER TO RUCKUS UNDER THESE SERVICE TERMS FOR THE SIX (6) MONTH PERIOD PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH

LIABILITY. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT. NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THESE SERVICE TERMS TO THE CONTRARY, NEITHER PARTY NOR RUCKUS SUPPLIERS SHALL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE OR PUNITIVE DAMAGES RELATING TO OR ARISING OUT OF THESE SERVICE TERMS, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCTS LIABILITY, EQUITY OR ANY OTHER THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO LOST PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, LOSS OF GOODWILL, LOSS OR DAMAGE OF DATA OR SYSTEMS OR OTHER BUSINESS LOSS, REGARDLESS OF WHETHER SUCH PARTY KNOWS OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS OR EXPENSES, AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

**9. Verifying Compliance.** Customer must keep records relating to its compliance to the terms and conditions herein, including accurate inventories of all supported Products. Ruckus may verify compliance, at Ruckus' expense, with any license agreement or Order during the term of these Service Terms and for a period of one year thereafter. Customer agrees to reasonably cooperate with any verification request and, with no less than 30 days' notice, during normal business hours and in a manner that does not interfere unreasonably with Customer's operations provide Ruckus or its designee access to all relevant books and records required to verify compliance. Ruckus and Ruckus' auditors will use the information obtained in compliance verification only to enforce Ruckus' rights and to determine whether the Customer is in compliance with the terms of the applicable agreements.

**10. Term.** These Service Terms will remain in effect throughout any period Ruckus provides Services to Customer under an Order accepted by Ruckus subject to these terms. Either party to these Service Terms may terminate it at any time by giving at least 30 calendar days prior written notice. The term of any Order will be set forth in the Order. Either party may terminate these Service Terms or an Order if the other party is in material breach or default of any obligation that is not cured within 30 calendar days' notice of such breach. The sole effect of terminating these Service Terms will be to terminate the ability of either party to enter into subsequent Orders under these Service Terms. Termination of these Service Terms will not, by itself, result in the termination of any Order previously entered into (or extensions of the same) under these Service Terms, and the terms of these Service Terms will continue in effect for purposes of such Order unless and until the Order itself is terminated or expires.

#### **11. General.**

**11.1 Relationship of the Parties.** Ruckus and Customer are independent contractors, and nothing in these Service Terms shall be construed to constitute the parties as partners, joint venturers, co-owners, employers or employees of the other or otherwise participants in a joint undertaking or authorize either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

**11.2 Notice.** Any notice required or permitted to be given hereunder shall be in writing and shall be sent by certified mail, return receipt requested, delivered by a recognized international express courier service (such as DHL or Federal Express) to the address of the other party in the Order, or such other address as a may be identified as the headquarters of such party. Any such notice shall be deemed given when sent if sent in accordance with this Section.

**11.3 Compliance with Laws.** Each party shall comply with all laws, regulations, orders and other governmental or other competent

authority requirements ("Applicable Laws") in performing its obligations and exercising its rights under these Service Terms (including without limitation all applicable export, re-export and import laws and regulations). These Service Terms are expressly made subject to any laws, regulations, orders or other restrictions on the export from the United States of America of any technology, Products incorporating technology or information pertaining thereto which may be imposed from time to time by the Government of the United States of America or any agency thereof. Notwithstanding anything contained in these Service Terms to the contrary, Customer shall not export or re-export, directly or indirectly, any technology, Products incorporating technology or information pertaining thereto to any country for which the Government of the United States of America or any agency thereof (a) has prohibited such export or re-export or (b) requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval. Customer shall maintain a record of exports, re-exports and transfers of the Products according to United States and local laws. Customer shall indemnify, defend and hold Ruckus harmless from and against any violation or alleged violation of any Applicable Laws by Customer. By accessing and using Ruckus Services, including accessing the Ruckus Support Portal, Customer consents to and agrees to comply with Ruckus' privacy policy located at <http://www.ruckuswireless.com/privacy/>.

**11.4 Choice of Law.** The parties agree that these Service Terms are entered into in the State of California, United States of America, and shall be construed, enforced and governed solely in accordance with the laws of the State of California and the United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed. The personal and exclusive jurisdiction and exclusive venue of any action arising hereunder shall be the Superior Court of California for the County of Santa Clara or the United States District Court for the Northern District of California. Each of the Parties hereto submits itself to the personal and exclusive jurisdiction of such courts for the purpose of any such action. Notwithstanding the foregoing, either party may seek equitable relief in any court of appropriate jurisdiction with respect to any alleged breach of such Party's proprietary rights. The prevailing party in any action or proceeding to enforce or interpret any part of these Service Terms shall be entitled to recover its reasonable expenses including without limitation reasonable attorney's fees (including fees on any appeal).

**11.5 United States Government Contract Provisions and Clauses.** In the event any Products purchased hereunder are sold, or are incorporated into Products that are sold, under a United States Government contract, any and all provisions or clauses required to be passed on to Ruckus pursuant to such contract are hereby rejected by Ruckus and shall not be deemed included herein or binding on Ruckus unless and until specifically accepted in a writing executed by an authorized representative of Ruckus.

**11.6 Force Majeure.** Other than the payment obligations, nonperformance of either party shall be excused to the extent that performance is rendered commercially unreasonable by acts of God, war, fire, flood, riot, power failure, embargo, material shortages, strikes, governmental acts, man-made or natural disasters, earthquakes, failure or limitation of supply or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing party, and provided that such party notifies in writing the other party of the existence of such situation.

**11.7 Assignment.** The rights and obligations under these Service Terms are personal and may not be transferred or assigned directly or indirectly except upon written consent of the non-assigning party; except however (a) Ruckus may assign its right to payment and (b) either party may assign these Service Terms to an affiliate or successor in interest (or its equivalent) of all or substantially all of its relevant assets, whether by sale, merger, or otherwise. Subject to the foregoing, these Service Terms shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

**11.8 Miscellaneous.** If, for any reason, a court or other body of competent jurisdiction finds, or the Parties mutually believe, any provision of these Service Terms, or portion thereof, to be invalid or unenforceable, such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of these Service Terms shall continue in full force and effect. The Parties shall negotiate in good faith an enforceable substitute provision that most nearly achieves the intent and economic effect of such invalid or unenforceable provision. These Service Terms may only be modified, or any provisions herein waived, by the executing of a written amendment between the parties signed by authorized signatories. No delay or omission to exercise any right, power or remedy accruing hereunder to any party shall impair or be construed as a waiver of any such right, power or remedy. These Service Terms, including any Orders incorporating the terms, sets forth the entire agreement and understanding, express or implied, written or oral, of the Parties with respect to the sale of Products and supersedes any and all prior and contemporaneous agreements and understandings relating thereto, express or implied, written or oral, between the Parties. The Parties agree that the terms and conditions contained in either party's printed documents, including any Order, shall not apply to the purchase and sale of the Products and that the terms and conditions set forth herein shall govern all such transactions; provided, however, that the terms and conditions typed or hand-written on the face of an Order, acknowledgment or other document relating only to the Product types, quantities, prices, and delivery shall, if accepted by both Parties hereto, also apply to all such transactions and shall augment the terms and conditions set forth herein.

COUNTY OF SAN BERNARDINO

▶ *Curt Hagman*  
Curt Hagman, Chairman, Board of Supervisors

Dated: JUN 08 2021  
SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

By *Lynna Monell*  
Lynna Monell  
Clerk of the Board of Supervisors  
of the County of San Bernardino  
Deputy



Ruckus Wireless, Inc.

(Print or type name of corporation, company, contractor, etc.)

By ▶ *Damien Holloway*  
(Authorized signature - sign in blue ink)

Name DAMIEN HOLLOWAY  
(Print or type name of person signing contract)

Title VP CUSTOMER SERVICES & SUPPORT  
(Print or Type)

Dated: 7 May 20201  
350 Java Dr, Sunnyvale, CA

Address \_\_\_\_\_  
\_\_\_\_\_