

Standard Limited Warranty and Software License

THE FOLLOWING WARRANTY AND SOFTWARE LICENSE GRANT APPLY ONLY FOR BRIDGEWAVE COMMUNICATIONS, INC. (“BRIDGEWAVE”) PRODUCTS PURCHASED THROUGH BRIDGEWAVE AUTHORIZED RESELLERS AND CHANNEL PARTNERS WITHIN THEIR APPROVED REGION BY THE ORIGINAL END PURCHASER (“BUYER”). IF BRIDGEWAVE PRODUCTS WERE OBTAINED THROUGH OTHER CHANNELS, THE FOLLOWING PROVISIONS DO NOT APPLY AND THE SELLING PARTY SHOULD BE CONTACTED FOR INFORMATION ON ANY PRODUCT WARRANTIES AVAILABLE.

The following terms apply to the Buyer’s use of BridgeWave hardware products (“Products”) and software products (“Software”), except to the extent otherwise provided in (a) a separate written agreement between Buyer and BridgeWave or (b) a “click-on” license agreement as part of the installation and/or downloading process for a particular Software. To the extent of a conflict between the provisions of these documents, the order of precedence shall be (1) the written agreement, (2) the click-on license agreement, and (3) this Limited Warranty and Software License.

LIMITED HARDWARE WARRANTY

Limited Hardware Warranty. Subject to limitations below, for a period of twelve (12) months (the “Warranty Period”) after shipment to Buyer of the Hardware by BridgeWave or an authorized distributor of BridgeWave products, BridgeWave warrants that the Products, under normal use and service, shall be free in all material respects from defective design, material and faulty workmanship and shall operate in all material respects in compliance with the functional specifications, designs, installation instructions, Product descriptions or technical requirements published by BridgeWave in its Product Manual (“Specifications”). The foregoing warranty includes Basic Support Services (as defined at www.BridgeWave.com) from BridgeWave during the Warranty Period. These warranties are provided for the benefit of the original Buyer only. Except for the foregoing warranties, the Products are supplied “AS IS”.

Remedies for Breach of BridgeWave Warranty. If a Product is in breach of BridgeWave’s warranty during the Warranty Period, BridgeWave shall, as the sole and exclusive remedy, within thirty (30) calendar days after BridgeWave’s receipt of the returned Product, repair, replace (with new or refurbished units) or modify, as BridgeWave may solely elect, the Product as necessary so that the Product complies with the applicable Warranty, or at BridgeWave’s option, refund to the Buyer the Buyer’s purchase price paid for the Product. Before returning any Products to BridgeWave, Buyer must follow the steps set forth in the Trouble Shooting and Return Merchandise Procedure explained at www.BridgeWave.com. Any Product returned to BridgeWave must be shipped according to BridgeWave’s instructions with a properly issued RMA number clearly visible on the outside of the packaging. All Products returned to BridgeWave shall be shipped DDP (Delivery and Duties Paid) by Buyer to BridgeWave’s designated service facility. BridgeWave shall prepay return freight charges on repaired or replaced Products when BridgeWave determines, in its sole judgment that a breach of warranty occurred. BridgeWave may charge its standard rates for any repair or replacement work performed on returned Product that was not in breach of the warranties herein.

Replacement Product Warranty. The Warranty Period of replacement Product (whether new or refurbished) shall commence upon the shipment of the replacement Product to Buyer and shall expire on the later of ninety (90) days after shipment date or the last day of the original Warranty Period with respect to the replaced Product. All replaced parts or Product shall become the property of BridgeWave.

Limitation on Warranty. Except where they are embedded in the Products, non- BridgeWave manufactured products provided to Buyer are excluded from any BridgeWave warranty, but may be subject to a warranty provided by the original manufacturer. BridgeWave shall supply a copy of any such warranty to Buyer on specific written request. BridgeWave warranties are void if: (a) Buyer integrates or assembles the Product with other products unless integrated or assembled in accordance with applicable Specifications; (b) the Product is wired, repaired or altered by anyone other than BridgeWave or an authorized representative of BridgeWave in strict accordance with the applicable Specifications; (c) the Product is improperly handled, stored, installed or maintained; (d) the Product is used in violation of the applicable Specifications or BridgeWave’s instructions or subjected to misuse, neglect, accident, abuse or suffers damage due to acts of nature; or (e) the Product is disassembled or its housings are removed by any person other than a BridgeWave-authorized technician.

EXCLUSION OF CERTAIN WARRANTIES. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS AND IMPLIED REPRESENTATION OR WARRANTIES, INCLUDING BUT NOT LIMITED TO, PRODUCT NON-INFRINGEMENT, OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, ERROR FREE NON-INTERRUPTED OPERATIONS, PROTECTION FROM UNAUTHORIZED INTRUSION OR ATTACK OR OPERATION AT A SPECIFIED RANGE OR SIGNAL AVAILABILITY OR ARISING FROM A COURSE OF DEALING, LAW, USAGE OR TRADE PRACTICE. AS EACH PRODUCT IS UNIQUE, BRIDGEWAVE DISCLAIMS LIABILITY FOR OPERATION OF THE END USER NETWORK AS A WHOLE UNDER ANY WARRANTY PROVIDED HEREIN. TO THE EXTENT A WARRANTY CANNOT BE EXCLUDED BY LAW, SUCH WARRANTY IS LIMITED IN DURATION TO THE WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON WARRANTY DURATION, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES SPECIFIC LEGAL RIGHTS WHICH MAY BE IN ADDITION TO OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE.

SOFTWARE LICENSE

Software License. BridgeWave provides Buyer a non-exclusive, non-transferable limited license (“License”) to use, solely as embedded in, for execution on or for communication with the Products, the object code (and not the source code) of its Software. For purposes of this License, Software shall include any BridgeWave provided documentation, component parts, user interfaces, modifications, upgrades, updates, bug fixes, corrections, backup copies and new releases. Buyer’s use of the Software shall also be limited by any other restrictions set forth in BridgeWave’s quotation or in BridgeWave’s product catalog, user documentation or web site.

Title to Software. Title to the Software, and to any source code for the Software, shall at all times remain solely and exclusively with BridgeWave. Buyer agrees not to take any action inconsistent with such title. Buyer agrees that the Software, including the design and structure of individual programs, constitutes the trade secrets or copyrighted material of BridgeWave. Buyer agrees not to disclose such material in any form to any third party and to implement reasonable security measures to protect such material.

License Restrictions. BridgeWave reserves all other rights to the Software not specifically licensed hereunder. Buyer has no right to, and agrees not to sell, transfer, rent, copy, reverse engineer, reverse compile, decrypt, or reduce to human readable form to gain access to trade secrets or confidential information, modify or create derivative works of, or grant to any third party any rights in the Software, or permit any third party to do any of these prohibited acts, without BridgeWave's prior written consent. Buyer agrees to protect the Software licensed hereunder in a manner consistent with the maintenance of BridgeWave's ownership and proprietary rights therein, including displaying of any copyright and trademark notices in all Software as incorporated by BridgeWave.

Term and Termination. This License is effective until terminated. Buyer may terminate this License at any time, provided that Buyer's termination does not entitle Buyer to any refund of purchase or license fees. BridgeWave may terminate Buyer's rights under this License immediately upon written notice if Buyer fails to comply with any provision of this License. Upon termination, Buyer must destroy all copies of Software in its possession or control

Export. Software and Products, including technical data, may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Buyer agrees to comply strictly with all such regulations and acknowledges that Buyer has the responsibility to obtain licenses to export, re-export, or import Software and Products.

Restricted Rights. BridgeWave's commercial software and commercial computer software documentation is provided to United States Government agencies in accordance with the terms of this Limited Hardware Warranty and Software License, and per subparagraph "©" of the "Commercial Computer Software – Restricted Rights" clause at FAR 52.227-19 (June 1987). For DOD agencies, the restrictions set forth in the "technical Data-Commercial Items" clause at DFARS 252.227-7015 (Nov 1995) shall also apply.

LIMITATION OF REMEDY AND LIABILITY PROVISIONS

EXCLUSIVE REMEDIES. THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY AND SOFTWARE LICENSE ESTABLISH THE ENTIRE OBLIGATION OF BRIDGEWAVE AND BUYER'S SOLE REMEDY IN REGARD TO CLAIMS RELATING TO BREACH OF WARRANTY OR INTELLECTUAL PROPERTY RIGHTS INCLUDING BUT NOT LIMITED TO CLAIMS DIRECTED TO THE INFRINGEMENT OR MISAPPROPRIATION OF PATENTS, COPYRIGHTS, TRADE SECRETS AND OTHER PROPRIETARY RIGHTS FOR THE PRODUCTS.

NO CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY, OR EITHER PARTY'S SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SHAREHOLDERS OR CONTRACTORS ("RELATED PARTIES"), BE LIABLE TO THE OTHER PARTY OR ITS RELATED PARTIES FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR FOR COST OF COVER, LOST REVENUES, LOST PROFITS OR LOST DATA OR OTHER ECONOMIC LOSS ARISING FROM ANY CAUSE INCLUDING BUT NOT LIMITED TO BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR FAILURE OF ESSENTIAL PURPOSE EVEN IF BRIDGEWAVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE ABOVE-STATED WARRANTY FAILS OF ITS ESSENTIAL PURPOSE. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS OR EXCLUSIONS OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO BUYER.

LIMIT ON LIABILITY. THE MAXIMUM LIABILITY OF BRIDGEWAVE, AND ITS RELATED PARTIES, TAKEN AS A WHOLE, FOR ANY AND ALL CLAIMS IN CONNECTION WITH THE PRODUCTS AND SOFTWARE, INCLUDING BUT NOT LIMITED TO CLAIMS FOR BREACH OF WARRANTY, BREACH OF CONTRACT, TORT, STRICT LIABILITY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, SHALL IN NO CIRCUMSTANCE EXCEED THE PURCHASE PRICE PAID BY BUYER TO BRIDGEWAVE OR BRIDGEWAVE'S AUTHORIZED CHANNEL PARTNERS FOR THE PRODUCTS AND SOFTWARE.

Statute of Limitations. Any action for breach of or to enforce any right under this Limited Hardware Warranty or Software License shall be commenced within one (1) year after the cause of action accrues, or reasonably could have been discovered, or it shall be deemed waived and barred.

Administrative Provisions. This Limited Hardware Warranty and Software License shall be governed by and construed in accordance with the laws of the State of California, without reference to principles of conflict of laws, provided that for customers located in a member state of the European Union, Norway or Switzerland, English law shall apply. The United Nations Convention on the International Sale of Goods shall not apply. If any portion hereof is found to be void or unenforceable, the remaining provisions of the Limited Hardware Warranty and Software License shall remain in full force and effect. Except as expressly provided herein, the Limited Hardware Warranty and Software License constitutes the entire agreement between the parties with respect to warranties on the Hardware and Licensing of the Software, and supersedes any conflicting or additional terms contained in any prior or contemporaneous discussion, negotiation or agreement, including those in any purchase order or order acknowledgment.



BridgeWave Communications, Inc.
3350 Thomas Road, Santa Clara, CA 95054
Ph: 1-(866)-577-6908, +1 (408)567-6900 | Fax: +1 (408) 567-0775

www.bridgewave.com