Sendio Technologies, Inc.

Master Subscription Agreement

This Subscription Agreement (the "**Agreement**") is entered into by and between the undersigned customer ("**Customer**") and Sendio Technologies, Inc., a Delaware corporation ("**Sendio**") effective as of the date of the last signature below (the "**Effective Date**"). Sendio and Customer may be referred to herein individually as a "**party**" and collectively as the "**parties**."

Customer Information

BACKGROUND

Sendio offers a proprietary email solution that aims to increase inbox security and efficiency while maintaining business continuity through a unique self-managing email community concept (the "**Solution**"). The Solution is offered through three delivery options – Hosted, Appliance and Virtual Appliance described in the Subscription Form attached as <u>Exhibit A</u> hereto (the "**Subscription Form**"). Customer wishes to use the Solution through the Delivery Option elected in the Subscription Form (the "**Delivery Option**").

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

Subject to the terms and conditions of this Agreement, Sendio will allow Customer to access and use the Solution through the Delivery Option, during the term of this Agreement, solely for Customer's internal business purposes.

This Agreement including the Subscription Form, and Sendio General Terms and Conditions attached hereto as <u>Exhibit B</u>, incorporated herein by this reference, constitute the entire, final and exclusive agreement between the parties regarding the subject matter hereof, and supersede all prior or contemporaneous agreements, understandings, discussions, negotiations and communications, whether written or oral, express or implied. No amendment to or modification of this Agreement shall be binding unless in writing and signed by a duly authorized representative of both parties.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. Execution and delivery of this Agreement may be evidenced by facsimile transmission or by email transmission of a PDF.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

[Customer Name]   **Sendio Technologies, Inc.**

<u>EXHIBIT A</u>

Sendio Technologies, Inc.

SUBSCRIPTION FORM

EXHIBIT B

SENDIO GENERAL TERMS & CONDITIONS

These Sendio General Terms & Conditions attached to the Sendio Technologies, Inc. Master Subscription Agreement (the "**Agreement**") by and between Sendio and the Customer govern the Customer's use of the Solution.

1. DEFINITIONS.

1.1 "**Agreement**" shall mean the Sendio Technologies, Inc. Master Subscription Agreement, which includes these Sendio General Terms and Conditions and the Subscription Form.

1.2 "**Confidential Information**" means (a) all technical, financial, commercial, legal or other proprietary information, in whatever form or media, which is designated "Confidential" in writing at the time of disclosure, and (b) the Sendio Technology and Documentation.

1.3 "**Documentation**" means written information (whether contained in user or technical manuals, training materials, specifications or otherwise) specifically pertaining to the Solution and made available by Sendio to Customer in any manner (including on CD-ROM, or on-line).

1.4 "**Hardware**" means the Sendio hardware device, including, without limitation, integrated Ethernet and USB ports and related connections, and firmware made available to Customer, if Customer elects Appliance as the Delivery Option.

1.5 "**Permitted User**" shall mean a user who has been authorized by Customer to access and use the Solution.

1.6 "**Sendio Technology**" means the Sendio software, algorithms, know-how, processes, methodologies, specifications, designs, inventions, functionality, graphics, techniques, methods, applications or other technology and materials of any kind used by Sendio to provide the Solution.

2. SOLUTION AND LICENSE GRANTS.

2.1 <u>Customer's Right to Access the Solution</u>. Subject to the terms of this Agreement, Customer may authorize Permitted Users to use the Solution, during the term of this Agreement, solely for Customer's internal business purposes. Customer's rights are non-transferable and non-sublicensable.

2.2 <u>License Grant</u>. Conditioned upon compliance with the terms and conditions of this Agreement, and solely in connection with Customer's use of the Solution as permitted in this Agreement, Sendio grants to Customer a nonexclusive and nontransferable license to use, during the term of this Agreement, (a) the Sendio Software (as defined below) solely in the following manner: (i) as installed on the Hardware, if Appliance is the Delivery Option; and (ii) as installed on Customer's existing VMWare environment, if Virtual Edition is the Delivery Option, and (b) the Documentation.

2.3 <u>Restrictions</u>. Customer acknowledges that the Sendio Technology (including the structure, sequence and organization of the software comprised in the Sendio Technology (the "**Sendio Software**")) constitute valuable trade secrets of Sendio. Customer will not, and will not permit any Permitted User or any other party to: (a) alter, modify, reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Sendio Software, or any part thereof; (b) distribute, rent, lease, loan or sublicense the Sendio Technology or sublicense or transfer any of its rights under this Agreement; (c) use the Sendio Technology for the business needs of another person or entity including, without limitation, providing outsourcing, service bureau, commercial hosting, application service provider or on-line services to third parties, or otherwise making available the Sendio Technology, or access thereto, to any third party; or (d) otherwise use the Sendio Technology except as explicitly permitted by this Agreement.

2.4 <u>Prohibited Use</u>. As a condition of Customer's use of the Solution, Customer agrees not to: (a) access, tamper with, or use any non-public areas of the Sendio's systems or said system's providers; (b) attempt to probe, scan, or test the vulnerability of the Sendio's systems or any related system or network or breach any privacy, security or authentication measures; (c) provide access to or utilize the Solution under a time-share or service bureau arrangement or in any other manner, which would permit any third party, other than Permitted Users, to, directly or indirectly, utilize or otherwise benefit from the Solution, whether or not for monetary or other consideration; (d) interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing Sendio's systems or providers; or (e) impersonate or misrepresent affiliation with any person or entity. Sendio will have the right to investigate and prosecute violations of any of the above, including intellectual property rights infringement and security-related issues, to the fullest extent of the law. Sendio may involve and cooperate with law enforcement authorities in prosecuting users who violate these terms. Customer acknowledges that Sendio has no obligation to monitor Permitted Users' access to or use of the Solution, but has the right to do so for the purpose of operating the Solution, to ensure their compliance with these terms, or to comply with applicable law or the order or requirement of a court, administrative agency, or other governmental body.

2.5 <u>Use of Solution by Permitted Users</u>. Customer may only allow that number of Permitted Users to access and use the Solution as are designated on the Subscription Form. Customer shall be responsible for Permitted Users' compliance with this Agreement. Customer may add Permitted Users through mutual agreement with Sendio. Any additional Permitted Users are subject to the terms and conditions of this Agreement. Customer will pay the then-current subscription fees for each additional Permitted User. All Permitted Users added during a billing period will be charged in full for that billing period.

2.6   Right to Monitor. Sendio will have the right to analyze user behavior to evaluate use of the Solution and emails, both on an individual basis and in the aggregate, and otherwise to collect, create and analyze metadata about Customer's use of the Solution provided that such metadata is never disclosed to any third party other than in an anonymized and aggregate format.

2.7   Customer's Responsibilities. Customer shall be solely responsible for maintaining its own equipment and establishing its own connection via the Internet to the Solution, if Delivery Option is Hosted. If Virtual Appliance is the Delivery Option, Customer will be responsible for maintaining the VMWare environment and to host and install the Sendio Software. Customer acknowledges and agrees to maintain its network as per the connectivity requirements set forth in the Documentation.

3.   SALE OF HARDWARE.

3.1   Sale of Hardware. If Customer elects Appliance as the Delivery Option, Sendio will sell and deliver to Customer the Hardware for installation by Customer, subject to the terms and conditions of this Agreement. Sendio will select a carrier in its sole discretion to ship the Hardware for Customer to the address designated on the Subscription Form (the "**Installation Site**"), but in no event shall Sendio be liable for any delay in delivery or assume any liability in connection with the shipment. Customer shall reimburse Sendio, upon demand, for all shipping and insurance charges, and other similar charges, in connection with the transportation of the Hardware to the Installation Site.

3.2   Title and Risk of Loss. Unless otherwise agreed to by the parties, title and risk of loss or damage to the Hardware from any cause shall pass to Customer from the date of the shipment to Customer (without regard to notification of shipment or selection of carrier). THE OCCURRENCE OF ANY SUCH LOSS OR DAMAGE SHALL NOT RELIEVE CUSTOMER OF ANY OBLIGATION HEREUNDER.

3.3   Maintenance. Customer shall assume all obligation and liability with respect to the possession of the Hardware, and for its use, operation, condition, and storage during the term of this Agreement.   Customer shall, at Customer's own expense, maintain the Hardware in good condition and order, allowing for reasonable wear and tear. Failure to comply with the terms of this Section 3.3 voids the Hardware warranty.

3.4   Software. To the extent that the Hardware delivered by Sendio to Customer contains any Sendio Software in any form, including software or firmware that is embedded in hardware components of such Hardware, such Sendio Software is licensed to Customer, not sold, solely in accordance with the terms and conditions of this Agreement.   Terms such as "sell" and "purchase", as used in this Agreement, apply only to the extent that the Hardware consist of items other than software.

3.5   Right of Entry.   Sendio, at its discretion, during Customer's regular business hours and with five (5) days' prior notice to Customer, shall have the right to enter the Installation Site where the Hardware is located or used for the purpose of

inspection. If any Hardware covered by this Agreement is not being properly used or maintained in the sole opinion of Sendio, Sendio shall have the right, but not the obligation, to have it repaired or maintained at a service facility at the expense of Customer.

4.   OWNERSHIP.   Sendio retains all right, title and interest in and to, and all intellectual property rights embodied in or related to the Solution, Sendio Technology, Sendio Software and any other features, information or technology used or made available in connection with the Solution, including without limitation any and all improvements, updates, and modifications thereto, whether or not made in conjunction with this Agreement. Without limiting the foregoing, Sendio shall retain sole and exclusive ownership, control and right to exploit the sender address verification auto-reply e-mail. Other than the right to access and use the Solution and the Sendio Technology expressly granted hereunder, this Agreement does not grant Customer a license to any software used to provide the Solution or associated with the Solution, or to any other software, by implication, by estoppel, or otherwise. Sendio name, logo, and the product and service names associated with the Solution are trademarks of Sendio or third parties, and no right or license is granted to Customer to use them separate from Customer's right to access the Solution.

5.   CONFIDENTIALITY.

5.1   Obligations. A party receiving or gaining access (the "**Receiving Party**") to Confidential Information (as defined below) of the other party (the "**Disclosing Party**") will: (i) not disclose any Confidential Information of the other to any third party at any time without the prior written consent of the Disclosing Party; (ii) not make use of any Confidential Information of the Disclosing Party for any purpose other than for the purposes set forth in, or in furtherance of the transactions contemplated by this Agreement; and (iii) disclose such information to only such employees or contractors who have a need to know the same in connection with the Solution and only after such employees and contractors has been informed of the confidential nature of the information and have agreed to be bound by the terms of this Agreement or a similar binding obligation of confidentiality and non-disclosure. The Receiving Party further agrees that the Disclosing Party's Confidential Information shall remain the sole property of the Disclosing Party. No license shall be granted by the Disclosing Party to the Receiving Party with respect to Confidential Information disclosed hereunder unless otherwise expressly provided herein.

5.2   Termination of Obligations.   The Receiving Party's obligations under this Section 4 with respect to any Confidential Information of the Disclosing Party will terminate if and when the Receiving Party can document that such information: (a) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party; (b) is disclosed to the Receiving Party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the Receiving Party has become, generally available to the public; or (d) is independently developed by the Receiving Party without access to, or use of, the Disclosing

Party's Confidential Information. In addition, the Receiving Party will be allowed to disclose Confidential Information of the Disclosing Party to the extent that such disclosure is: (i) approved in writing by the Disclosing Party; (ii) necessary for the Receiving Party to enforce its rights under this Agreement in connection with a legal proceeding; or (iii) required by law or by the order or a court of similar judicial or administrative body; provided, that the Receiving Party notifies the Disclosing Party of such required disclosure promptly and in writing and cooperates with the Disclosing Party, at the Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure.

5.3   Return of Confidential Information. The Receiving Party will return to the Disclosing Party or destroy all Confidential Information of the Disclosing Party in the Receiving Party's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the Disclosing Party or the expiration or termination of this Agreement, whichever comes first. At the Disclosing Party's request, the Receiving Party will certify in writing that it has fully complied with its obligations under this Section 4.3.

5.4   Remedies. If Receiving Party breaches any of its obligations with respect to confidentiality and unauthorized use of the Disclosing Party's Confidential Information hereunder, the Disclosing Party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to, injunctive relief, as well as direct monetary damages notwithstanding anything to the contrary contained herein.

6.   PAYMENTS.

6.1   Paid Subscription. By subscribing to the Solution, Customer expressly agrees to pay subscription fees set forth on the Subscription Form, plus any applicable tax. Sendio may increase subscription fees by delivering notice to Customer at least thirty (30) days prior to the end of the then-current subscription period.

6.2   Purchase Price. Customer agrees to pay the price (the "**Purchase Price**") for the Hardware as set forth on the Subscription Form in accordance with the payment schedule disclosed in the Subscription Form. Customer's obligation to pay the Purchase Price and all other obligations hereunder shall be absolute and unconditional and are not subject to any abatement, set-off, defense or counterclaim for any reason whatsoever.

6.3   Payment. Unless otherwise agreed by Customer and Sendio, payment for all fees, shall be by automatic ACH /electronic check (eCheck) or credit card auto-payment as indicated on the Subscription Form. Customer authorizes Sendio to debit and/or credit Customer's bank account for any and all charges incurred without advanced notice via the payment method selected on the Subscription Form, until Customer cancels the subscription. Subscription fees are fully earned upon payment. Customer must cancel the subscription before it renews each month in order to avoid billing of the next month's

subscription fees. Payments are nonrefundable and there are no refunds or credits for partial-month subscription periods.

6.4   Billing Disputes. All billing disputes or requests for billing adjustments must be submitted in writing to the Sendio accounting department within ten (10) days of the fees being charged by Sendio, accompanied by a reasonably detailed explanation for the basis of such dispute. Sendio may request additional information or supporting documentation or reject Customer's claim if unverifiable based on Sendio's records. If Sendio rejects such claim, Sendio will notify Customer, in which case no refund or credit shall be due. If Sendio determines that the disputed portion was erroneously charged, Sendio will notify Customer of such determination and will credit Customer's account for such amount in the next appropriate billing cycle.

6.5   Late Payments. Sendio may suspend the Solution immediately and without notice if Customer's account with Sendio is or becomes past due. In addition to any rights and remedies available to Sendio hereunder, at law, or in equity, if Customer fails to pay any fees due hereunder within ten (10) days from the date due, Sendio may impose a late charge equal to the maximum allowable under applicable law. Customer shall be liable for any costs and expenses, including any and all attorneys' fees, incurred by Sendio in collecting any amounts due and payable hereunder.

7.   LIMITED WARRANTIES.

7.1   Hardware.

7.1.1   Commencing on the date of delivery to Customer, Sendio warrants that the Hardware, under normal use, shall be free of defects in materials and workmanship, shall function in accordance with the Documentation, and shall continue in this manner for the period of one (1) year (the "**Warranty Period**"). If a hardware defect arises and a valid claim is received within the Warranty Period, Sendio will, at its sole option, either (a) repair the hardware defect at no charge, using new or refurbished replacement parts, or (b) exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product. A replacement product or part, including a user-installable part that has been installed in accordance with instructions provided by Sendio, assumes the remaining warranty of the original product or ninety (90) days from the date of replacement or repair, whichever provides longer coverage.

7.1.2   Customer can purchase extended warranties for the Hardware, in additional one (1) year increments for a maximum of 2 additional years (3 years total), from Sendio and/or Sendio's Authorized Reseller Partners. Sendio does not warrant that the operation of the Hardware will be uninterrupted or error-free. Sendio is not responsible for damage arising from failure to follow instructions relating to the Hardware's use or environmental conditions.

7.1.3   The Hardware warranty does not apply: (a) to damage caused by use with non-Sendio products; (b) to damage

caused by accident, abuse, misuse, electrical surges, flood, fire, earthquake or other external causes; (c) to damage caused by operating the product outside the permitted or intended uses described by Sendio or failure to maintain the Product in accordance with instructions provided by Sendio; (d) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of Sendio or a Sendio reseller; (e) to any damage for data recovery; or (f) to any labor or other costs associated with installing or configuring the Hardware.

7.2   Software. Sendio warrants that from the Effective Date of this Agreement, and continuing for a period of ninety (90) days: (a) the media on which any Sendio Software is furnished (if applicable) will be free of defects in materials and workmanship under normal use; and (b) the Sendio Software shall substantially conform to its specifications published in the Documentation. Except for the foregoing, the Sendio Software is provided AS IS. This limited warranty extends only to the Customer who is the original licensee. Customer's sole and exclusive remedy and the entire liability of Sendio and its suppliers and licensors under this limited warranty will be, at Sendio's option, repair, replacement, or refund of the Software if reported (or, upon request, returned) to Sendio or the party supplying the Sendio Software to Customer. In no event does Sendio warrant that the Sendio Software is error free or that Customer will be able to operate the Software without problems or interruptions. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Sendio does not warrant that the Sendio Software or any equipment, system or network on which the Sendio Software is used will be free of vulnerability to intrusion or attack.

7.3   TO THE EXTENT PERMITTED BY LAW, THE WARRANTY AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED RELATING TO THE SOLUTION, SENDIO TECHNOLOGY OR THE HARDWARE. AS PERMITTED BY APPLICABLE LAW, SENDIO SPECIFICALLY DISCLAIMS ANY AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS, AND WARRANTIES ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USE OF TRADE, AS TO THE SOLUTION, SENDIO TECHNOLOGY OR THE HARDWARE. IF SENDIO CANNOT LAWFULLY DISCLAIM STATUTORY OR IMPLIED WARRANTIES THEN TO THE EXTENT PERMITTED BY LAW, ALL SUCH WARRANTIES SHALL BE LIMITED IN DURATION TO THE DURATION OF THIS EXPRESS WARRANTY AND TO REPAIR OR REPLACEMENT SERVICE AS DETERMINED BY SENDIO IN ITS SOLE DISCRETION. FURTHERMORE, SENDIO DOES NOT WARRANT THAT THE SERVICE WILL MEET ALL OF CUSTOMER'S REQUIREMENTS, THAT THE USE OF THE SERVICE WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE. No Sendio reseller, agent, or employee is authorized to make any modification, extension, or addition to this warranty.

8.   TERM AND TERMINATION.

8.1   Term. This Agreement will become effective on the Effective Date and shall remain in force for a period set forth in the Subscription Form.   Thereafter, the Agreement shall automatically renew on a month-by-month basis until either party gives the other party a written notice of its intent to not renew the Agreement.

8.2   Termination. Customer acknowledges and agrees that Sendio may stop (permanently or temporarily) providing the Solution (or any features within the Solution) to Customer at Sendio's sole discretion, without prior notice to Customer, if Customer breaches the terms of this Agreement. In addition, Sendio may terminate this Agreement and Customer's right to access and use the Solution or the Sendio Technology for any reason or no reason by giving thirty (30) days' prior written notice to Customer. If Sendio terminates the Solution or this Agreement for any reason other than Customer's breach of this Agreement or of any other contractual obligation to Sendio, Sendio will provide a refund of any amounts paid for the unused portion of the term. Upon any termination or expiration of this Agreement, (a) all rights and licenses granted to Customer in this Agreement will immediately cease to exist and Customer will immediately cease all use of the Sendio Technology, and (b) Sendio may promptly cease performing all obligations under this Agreement. Termination of this Agreement by either party shall not prejudice Sendio's right to recover or prove damages for amounts incurred or accrued and unpaid prior to the date of termination. No remedy referred to in this Agreement is intended to be exclusive, but each remedy shall be cumulative and in addition to any other remedy referred to above or otherwise available to Sendio at law or in equity and may be exercised concurrently or consecutively.

9.   INDEMNIFICATION. Customer shall, at its own expense, defend, indemnify and hold Sendio harmless against any third party claims, actions or proceedings, damage, losses, costs and expenses (including reasonable attorneys' fees) arising in connection with any use of the Solution, Sendio Technology or the Hardware.

10.   LIMITATION OF LIABILITY.

10.1   Limitation. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, SENDIO'S MAXIMUM LIABILITY TO CUSTOMER UNDER THIS AGREEMENT IS LIMITED TO THE FEES PAID BY CUSTOMER TO SENDIO IN THE SIX (6) CALENDAR MONTH PERIOD IMMEDIATELY PRECEDING THE DATE FOR WHICH ANY CLAIM OF LIABILITY IS MADE.

10.2   Disclaimer. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL SENDIO BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO,

DAMAGES ARISING OUT OF LOSS OF USE, LOSS OF DATA, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF ENTERPRISE OR LOSS OF OPPORTUNITY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, CONSEQUENCES OF ERRORS, DOWNTIME, WHETHER SCHEDULED OR UNSCHEDULED, OR FAULTY TRANSMISSION.

10.3   Basis of Bargain. THE PARTIES ACKNOWLEDGE THAT SENDIO HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE PARTIES AGREE THAT THE LIMITATION AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THIS AGREEMENT WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED THEIR ESSENTIAL PURPOSE.

11.   FORCE MAJEURE. Except for the payment of amounts owed hereunder by Customer, neither party shall be liable for any delay or failure in performance of its obligations under this Agreement from any cause beyond its reasonable control and without its fault or negligence, including, but not limited to, acts of God, acts of civil or military authority, government regulations, government agencies, delay or failure to receive government approvals, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts affecting facilities, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities, acts or omissions of transportation carriers, or delays associated with visa, immigration and/or custom problems, unavailability of or interruption or delay in telecommunications or third party services (including Internet services), virus attacks or hackers, failure of third party software.

12.   SUPPORT SERVICES.

12.1   Support Services. Sendio and/or Sendio's Authorized Reseller Partners will provide maintenance and support services related to the Hardware and Sendio Technology (the "**Support Services**") to Customer per the terms set forth in the Subscription Form. To the extent provided by Sendio, such Support Services will be provided in accordance with Sendio's maintenance and support policies, available at www.sendio.com/support. For the purpose of providing active support Sendio requires access all appliances via SSH (Secure Shell). This access should be limited to connections originating from Sendio's corporate subnet (64.58.146.32/27) via port 22.

12.2   Services Updates and Maintenance Releases. Sendio provides three types of periodic "updates" to the Sendio Technology: (a) data file updates, such as anti-virus signature definitions; (b) software maintenance releases, which may fix "bugs" or provide minor functional enhancements; and (c) services updates, that add new services or features. Data file updates occur frequently and are downloaded and installed automatically onto the Hardware. Software maintenance releases occur as needed, while services updates tend to be released every four to six months. Upon the installation of a software update onto the Hardware, the additional or modified software becomes covered under the terms of this Agreement. Customers with a valid software license receive all software updates at no additional charge.

13.   GENERAL PROVISIONS.   The parties to this Agreement are independent contractors, and nothing in this Agreement shall create a joint venture, partnership, employment relationship, franchise relationship or taxable entity between the parties. Except as otherwise set forth herein, any notice required or permitted to be given under this Agreement shall be in writing, delivered by hand, nationally recognized overnight courier service, facsimile or registered or certified mail and addressed to the other party at the mailing address indicated above. No waiver of any default under this Agreement will apply to any subsequent default, whether of a similar nature or not, nor will any such waiver be construed as a waiver of any other provision of this Agreement. Customer may not assign this Agreement or any rights or obligations hereunder without the prior written approval of Sendio, which approval shall not be unreasonably withheld. Any assignment made by either party in contravention of this Section shall be null and void for all purposes. If any provision, or portion thereof, of this Agreement, or its application to any person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement, such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law. This Agreement shall be construed in accordance with the laws of the State of California without regard to its choice of law provisions. Any dispute or claim arising out of or in relation to this Agreement, or the interpretation, making, performance, breach or termination thereof, shall be finally settled by binding arbitration under the Rules of JAMS. Judgment on the award rendered may be entered in any court having jurisdiction thereof. The place of arbitration shall be Irvine, California, U.S.A. The parties may apply to any court of competent jurisdiction for temporary or permanent injunctive relief, without breach of this section and without any abridgement of the powers of the arbitrator.