

END-USER APPLIANCE & SOFTWARE LICENSE AGREEMENT

This End-User Appliance & Software License Agreement ("EULA") is a contract between you (either an individual or a single entity) ("Customer") and BorderWare Technologies Inc. ("BorderWare") for the Appliance and the BorderWare Software to which this EULA applies.

CLICKING ON THE "I ACCEPT" BUTTON AT THE END OF THIS AGREEMENT INDICATES YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO CONTRACTUALLY BIND CUSTOMER. IF YOU DO NOT HAVE THIS AUTHORITY, YOU SHOULD SELECT "I DO NOT ACCEPT" AND REQUEST APPROVAL FROM SOMEONE WHO DOES HAVE THIS AUTHORITY TO BIND CUSTOMER. IF YOU DO NOT AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK THE "I DO NOT ACCEPT" BUTTON AND YOU WILL NOT BE AUTHORIZED TO USE THE APPLIANCE OR THE BORDERWARE SOFTWARE.

By purchasing or using the Appliance, Customer agrees to be bound by the terms of this EULA. If you do not agree with the terms of this EULA, do not accept this license agreement, do not activate the software and you are not authorized to use the Appliance.

1. Definitions. In this EULA, the following terms have the following meanings: "Appliance" means each of the BorderWare hardware appliances delivered to Customer under this EULA. "BorderWare Software" means the machine-readable, object-code version of the software (excluding the 3rd Party Software and the Other Software) whether owned by BorderWare or licensed by BorderWare from a 3rd party which is embedded or installed in the Appliance and licensed to Customer pursuant to this EULA, including all Changes provided to Customer under this EULA. "Change" means any feature pack, patch, update, upgrade, modification, improvement, enhancement, bug-fix, Problem remedy for or replacement of the BorderWare

Software provided to Customer under this EULA. "Documentation" means the documentation delivered with the Appliance, in hard copy or electronic format. "3rd Party Software" means any of the Kaspersky(TM) anti-virus software, the Network Associates McAfee(TM) anti-virus software, the Symantec Brightmail(TM) anti-spam software, that is not ordinarily a functional part of the Appliance, but rather a 3rd party product activated by BorderWare at Customer's request and at additional cost for use in conjunction with the Appliance pursuant to one or more separate licensing agreements between Customer and the 3rd party, which license agreements are contained in the 3rd Party Software. "Other Software" means the open source software that is contained in the BorderWare Software. "User" means a separate account for the receipt of messages or data within an email system or network (for example, if an email server at customer.com has 150 names for the separate or aggregate routing of email messages, then each would be a User; therefore jim@customer.com is a User and salesgroup@customer.com is a different User).

2. License Grant & Limitations. Subject to the terms and conditions of this EULA, BorderWare grants to Customer a paid up, non-exclusive, right and license to use the BorderWare Software and Documentation that Customer is entitled to receive hereunder. Despite Customer's ownership of the Appliance, all copyright, patent, trade mark, trade secret and other intellectual property rights in the BorderWare Software, the Documentation and the 3rd Party Software, are owned exclusively by BorderWare, its licensors or such 3rd parties. Customer will not copy, translate, modify, adapt, decompile, disassemble or reverse engineer the Appliance, hardware or software, or any element or component of it, or create any derivative work based on it. Customer will not move, alter, remove or obscure any patent, copyright or trademark notice appearing on or in the Appliance and Documentation. The use of the 3rd Party Software and the Other Software is governed exclusively by the terms of the applicable software license agreements and provisions contained in the 3rd Party Software or Other Software or in the Documentation. Except as expressly set forth herein, this EULA shall not apply to such 3rd Party Software or Other Software.

3. Security Connection. The BorderWare Software may be supplied with a security connection feature that enables Customer to automatically receive information and Changes from BorderWare. Customer acknowledges and agrees that if the security connection feature is enabled by Customer, limited information about the BorderWare Software and its configuration will be accessible by BorderWare, who may use this information for BorderWare's commercial purposes.

4 Borderware Security Network

When participating in the BorderWare Security Network ("BSN") MXtreme will send basic statistical information to BorderWare Technologies relating to threats that have been detected by MXtreme. This includes anti-spam, antivirus, Denial of Service and other types of attacks. This information contains no private or sensitive information and is used to gather and collate threat information only for global distribution. In the event that you do not wish to participate in BSN, the functionality may be de-activated through the GUI as follows:

- (i) Go to 'Mail Delivery' and select 'Anti-Spam'
- (ii) Select 'Intercept' and then the 'BorderWare Security Network' option

5. Delivery, Acceptance, Payment. Delivery of the Appliance, the BorderWare Software and any 3rd Party Software to Customer constitutes Customer's acceptance of it. Delivery of the Appliance to a carrier constitutes delivery to Customer, and all risk of loss or damage passes to Customer at that time. Ownership of the hardware comprising the Appliance passes to Customer when BorderWare has been paid in full for such Appliance. Customer shall pay all applicable shipping charges and taxes levied on the fees charged for the Appliance and the Software (except taxes based on BorderWare's income). If Customer acquired the Appliance and the BorderWare Software through a reseller, Customer acknowledges that (i) payment and delivery terms for the Appliance and BorderWare Software must be established separately and independently between Customer and the reseller; (ii) this EULA constitutes the entire agreement between the Customer and BorderWare regarding the license rights for the BorderWare Software and is controlling; (iii) the terms and conditions of any purchase order or other agreement between Customer and the reseller are not binding on BorderWare; (iv) the reseller is not BorderWare's agent and is not authorized to alter, amend or modify the terms of this EULA or to otherwise grant any license or other rights relating in any way to the BorderWare Software; and (v) Customer's non-payment of any amount due to a reseller relating to its licensed rights under this Agreement shall constitute a basis for BorderWare's termination of this Agreement. Customer further acknowledges that BorderWare makes no representation or warranty with regard to any services provided by any reseller, or any actions or failures to act by any reseller.

6. Government Customers. The BorderWare Software (a) was developed at private expense, is existing computer software and no part of it was developed with government funds, (b) is a trade secret of BorderWare or its licensors for all purposes of the Freedom of Information Act, (c) is commercial computer software submitted with only those rights provided in this EULA, (d) in all respects is proprietary data belonging solely to BorderWare or its licensors, (e) is unpublished and all rights are reserved under the copyright laws of the United States and elsewhere. For units of the Department of Defense (DoD) this BorderWare Software is licensed only with those rights specified in this EULA, and use, duplication or disclosure of the BorderWare Software is subject to the restrictions set forth in this EULA.

7. Limited Warranty. For a period of sixty (60) days from the date of activation of the BorderWare Software, BorderWare represents and warrants that the BorderWare Software will perform substantially in accordance with the specifications contained in the Documentation.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS EULA OR ELSEWHERE, CUSTOMER AGREES THAT BORDERWARE PROVIDES NO WARRANTY REGARDING THE APPLIANCE OR THE BORDERWARE SOFTWARE APART FROM THOSE EXPRESSLY SET FORTH IN SECTION 6 OF THIS EULA. BORDERWARE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INDEMNITIES AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, WHETHER ARISING UNDER CUSTOM, COMMON LAW OR STATUTE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. FURTHER, BORDERWARE DOES NOT WARRANT THAT THE

APPLIANCE OR THE BORDERWARE SOFTWARE WILL OPERATE WITHOUT ERROR OR INTERRUPTION, THAT IT WILL IDENTIFY OR FILTER OUT ALL KNOWN SPAM, VIRUSES OR OTHER PROGRAMMING ROUTINES THAT MIGHT CAUSE DAMAGE TO CUSTOMER, THAT IT WILL SATISFY ALL OF CUSTOMER'S NEEDS, OR THAT IT WILL OPERATE WITH ALL COMBINATIONS OF HARDWARE AND SOFTWARE USED BY CUSTOMER.

8. LIMITATION OF LIABILITY. BORDERWARE'S ENTIRE AGGREGATE LIABILITY ARISING FROM OR RELATED TO THIS EULA OR ITS SUBJECT MATTER WILL NOT IN ANY EVENT EXCEED THE TOTAL OF ALL SUMS PAID TO BORDERWARE BY CUSTOMER IN CONNECTION WITH THE APPLIANCE DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO SUCH LIABILITY. BORDERWARE WILL NOT BE LIABLE TO CUSTOMER FOR ANY INDIRECT, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, OR DAMAGES FOR LOST REVENUE, LOST PROFITS, LOST SOFTWARE OR DATA OR THE COST OF PROCURING REPLACEMENT GOODS, HOWEVER CAUSED. THE LIMITATIONS REFERRED TO IN THIS PARAGRAPH WILL APPLY TO ALL ACTS AND OMISSIONS OF BORDERWARE, REGARDLESS OF THE FORM OR BASIS OF ANY LEGAL ACTION, WHETHER STATUTE, CONTRACT, TORT OR OTHERWISE.

9. General Provisions.

(a) Force Majeure. Except for Customer's obligation to pay BorderWare for goods or services delivered hereunder, neither party will be responsible for any failure to perform or delay in performing any of its obligations under this EULA, to the extent that such failure or delay results from causes beyond the reasonable control of the party.

(b) Export Controls. Customer acknowledges that the Appliance, the BorderWare Software, the 3rd Party Software, the Other Software and Documentation may be subject to export controls under the regulations of Canada, the United States and other countries, and warrants that it will comply with all export control regulations of such countries.

(c) Assignment. BorderWare may assign its rights or obligations under this EULA to any affiliate or successor of BorderWare, or any other party which agrees in writing to be bound by this EULA. Customer may assign its rights under this EULA to an affiliate of Customer or to a lawful successor to the business of Customer or such affiliate, with the prior written consent of BorderWare, which consent shall not be unreasonably withheld. Customer shall remain liable to BorderWare for all obligations hereunder unless and until any such assignee has assumed all obligations to BorderWare in writing.

(d) Termination. BorderWare will be entitled at any time, upon written notice to Customer, to terminate this EULA, including the right of Customer or any other User to use the Appliance and to receive technical support services, for any material breach of this EULA if Customer or other User does not cure such breach within fifteen (15) days after BorderWare sends notice of said breach. Upon such termination by BorderWare, all rights of Customer and any other User in connection with the BorderWare Software will cease, and Customer and such other Users will promptly discontinue using and destroy the BorderWare Software, and return or destroy all copies of the Documentation.

(e) Binding EULA. This EULA is binding on BorderWare and Customer; and Customer will remain fully responsible for all its obligations under this EULA, and for any breach of such obligations, unless or until they are satisfied by Customer or waived by BorderWare.

(f) Entire Agreement, Partial Invalidity. This EULA contains the entire understanding of BorderWare and Customer regarding the Appliance and the BorderWare Software, and replaces any prior agreements or understandings, written or oral, between them. If any provision of this EULA is held illegal, unenforceable or in conflict with any law or regulation applicable to this EULA, the validity of the remaining provisions will not be affected.

(g) Dispute Resolution. If there is a disagreement between BorderWare and Customer regarding the Appliance, the BorderWare Software or this EULA that they are unable to resolve ("Dispute"), the Dispute will, within ten (10) days, be referred to each party's department manager. If such managers are unable to resolve the Dispute within five business days, the Dispute will, within two business days, be referred to the relevant vice-presidents or other senior executives of the parties. If the vice-presidents or other senior executives are unable to resolve the Dispute within five business days (or other mutually agreed period) after it is referred to them, either party may submit the Dispute to final binding arbitration before a single arbitrator under the arbitration rules of the UNCITRAL in force on the date of referral (the "Rules"), which

are deemed to be incorporated into this EULA. Neither party will pursue any proceeding against the other in any Court concerning any Dispute, except to enter a judgment on an arbitrator's award. Any arbitration proceedings will be held at Toronto, Canada, where and when specified by the arbitrator. If the parties cannot agree on the arbitrator within ten business days after the Dispute is referred to arbitration, the arbitrator will be appointed by the WIPO Arbitration & Mediation Center within a further ten business days. The arbitrator will settle the Dispute in accordance with the Rules, as modified by this EULA, unless the Rules or this EULA are in conflict with the governing law of this EULA, in which case the governing law will prevail to the extent of the conflict. The arbitrator will be entitled to make interim orders. All decisions of the arbitrator will be final and binding and not subject to review by any court. The arbitrator's reasons for the award will be provided in writing (under 1,500 words) within ten business days. The arbitration will be subject to the Convention on the Recognition and Enforcement of Foreign

Arbitral Awards for the purposes of entering a judgement on the arbitrator's award in a court with jurisdiction, or applying to such court for judicial recognition of the award or an order for enforcement of it.

The award will be made and promptly payable in U.S.dollars free of any tax, deduction or offset. The expense of the arbitration will be paid as the arbitrator determines; provided that the award will provide that any costs, fees (including legal fees) and taxes incident to enforcing the award will be charged against the party resisting enforcement.

(h) Remedies. If there is any breach of this EULA by BorderWare, Customer's legal remedies are limited to those expressly provided for in this EULA.

(i) Priorities. In the event of any conflict between the provisions of this EULA and the provisions of any purchase order or other document delivered by Customer, the provisions of this EULA shall prevail. The terms of any purchase order or other document delivered to BorderWare ("Purchase Order") are included and made a part of this EULA only to the extent of specifying the nature and quantity of the goods or services ordered, the price therefore, and the delivery date and destination thereof (together, the "Commercial Terms"). If such Commercial Terms are different than those provided for in this EULA, then the Commercial Terms specified on the Purchase Order shall prevail only if such Commercial Terms have been approved in advance in writing (which shall include email) by an authorized representative of BorderWare.

(j) Changes In Writing, Notices. This EULA may be amended, but only in writing by authorized representatives of the parties. All notices, requests, demands, or other communications under this EULA will be in writing and will be deemed given if delivered personally or five (5) days after mailing to the correct address.

(k) Waiver Of Breach. A waiver of a breach of this EULA, or the failure of a party to exercise any right under this EULA, will not constitute a waiver of any other breach, or prevent the exercise of any right under this EULA.

(l) Governing Law. This EULA will be governed by the laws of the Province of Ontario, Canada and the federal laws of Canada applicable in it, without giving effect to any choice of law rules.

(m) Jurisdiction. Subject to 8.(g) regarding dispute resolution, both parties consent to the non-exclusive jurisdiction of the courts of the Province of Ontario. The prevailing party will be entitled to recover its costs and reasonable legal fees incurred in connection with any arbitration or legal proceeding arising out of or related to this EULA.

A copy of this Agreement is available at: http://www.borderware.com/license_agreements.

By clicking on the "I ACCEPT" button below, Customer acknowledges having read this EULA before accepting it and represents that it has the authority to accept this EULA on behalf of Customer.