



Network Box USA

Terms and Conditions of Sale and Standard Services Level Agreement for Managed Cloud Email Security Service

This is a legally binding agreement (“Service Agreement and Terms of Sale”) (The Agreement) made by and between Network Box USA, Inc., having its principal address at 2825 Wilcrest, Suite 259, Houston, Texas, TX 77042 (“NBUSA”), and You, the purchaser (or authorized lessee) and user of the “Services”, as defined below, (hereinafter “You” or “Client”). This Agreement contains the terms and conditions of sale and service that apply to NBUSA and You on orders for Services sold by NBUSA, as specified in the related invoice. By using the NBUSA Services described on the invoice, You agree to be bound by and accept the terms and conditions herein. Any terms contained in or otherwise proposed by You in a purchase order, acceptance or other document, are hereby expressly rejected.

Definitions:

1. **Services:** As used herein refers to the specific Managed Cloud Email Security Services licensed by NBUSA to You.

Terms and Conditions of Sale and Standard Service Level Agreement

1. **Effect of Signature:** This Agreement shall be effective when it is accepted and signed by the Client. This Agreement may be signed by facsimile and/or in counterparts. By signing this Agreement, Client agrees to purchase the Services described in this Agreement and to pay during the term of this Agreement all payments provided for on this Agreement, including any applicable sales/use tax and service or other charges. By signing this Agreement, Client agrees that payments for services and any applicable fees are due when Client signs this Agreement and that all subsequent payments are due at the commencement of each billing period following delivery.
2. **Service Agreement:** NBUSA will provide support to Client, in accordance with the then-current support policies in effect. These policies are contained in the Service Level Agreement section of this document. NBUSA may, at its sole discretion, revise the SLA at any time. NBUSA has no obligation to provide service or support until NBUSA has received payment as specified in the signature page of this contract.
3. **Warranties/Disclaimer:** NBUSA MAKES NO WARRANTIES AS TO THE PRODUCT (INCLUDING ANY SOFTWARE), EXPRESS, IMPLIED OR STATUTORY. NBUSA MAKES NO WARRANTY AS TO SERVICES OTHER THAN AS EXPRESSLY SET FORTH IN THE APPLICABLE SLA. SOME STATES DO NOT ALLOW THE LIMITATION OR DISCLAIMER OF WARRANTIES AND THIS CLAUSE MAY NOT APPLY TO YOU.
4. **Payment Terms; Orders; Quotes.** Payment must be received by NBUSA prior to NBUSA’s acceptance of an order unless otherwise agreed in advance in writing by NBUSA. Payment for the services and support may be made by credit card (subject to acceptance by NBUSA), wire transfer, or some other prearranged payment method unless NBUSA has agreed to other terms, which agreement shall be in the sole discretion of NBUSA. For any payments due subsequent to acceptance of orders, the applicable invoices are due and payable within the time period noted on the invoice, measured from the date of the invoice. NBUSA may invoice parts of an order separately. Orders are not binding upon NBUSA until accepted by NBUSA and NBUSA reserves the right to reject any order. Any quotations given by NBUSA will be valid for the period of time expressly stated on the quotation.
5. **Block Licensing:** Client is contracting for a pre-determined block of mailboxes as per the signature page attached. In the event Client exceeds their designated block of mailboxes by five (5) or more mailboxes, consistently over a thirty (30) day term, NBUSA will automatically adjust the agreement to reflect pricing based on the new, larger block of mailboxes. For example: When Client has contracted for a block of 500 mailboxes and exceeds that block consistently for thirty (30) or more days and now has 509 mailboxes, NBUSA will adjust their contract to reflect the next billing tier which would be licensing for 600 mailboxes. NBUSA also recognizes the converse. In the event Client’s mailbox count falls into a lower block of mailboxes by five (5) or more mailboxes consistently over a thirty (30) day period, NBUSA will reduce Client’s billing to reflect the new mailbox tier.
6. **Default:** Client will be in default under this Agreement if Client fails to pay any part of the payments or other amounts due under this Agreement within ten days after the due date. Client will also be in default if Client fails to perform any other provision within ten days after NBUSA has made written demand to Client. Any misrepresentation of Client’s credit or financial standing or an assignment for the benefit of creditors shall constitute events of default under this Agreement. If Client is in default, NBUSA shall be entitled to terminate this Agreement and immediately discontinue service. Client will be liable for all costs and expenses, including attorney’s fees, involved in exercising any of NBUSA’s rights under the Agreement.
7. **Time is of the Essence; Interest:** Time is of the essence in this License Agreement. Late payments shall bear interest at the lesser of eighteen percent (18%) per annum or the maximum amount allowed by law, whichever is lesser.
8. **Taxes:** Client is responsible for sales, use and all other taxes associated with the order, except for NBUSA’s franchise taxes and taxes on NBUSA’s net income. NBUSA may collect sales taxes for Services independently of actual Client’s geographical location. Where applicable, a separate charge for taxes will be shown on the invoice. Client may provide NBUSA with a valid tax exemption certificate prior to NBUSA’s acceptance of the order, in which case NBUSA will not charge the applicable sales or use tax. Client will remain liable for any sales or use taxes regardless of NBUSA’s acceptance of a sales tax certificate.



9. **Substitutions:** From time to time, NBUSA may, in its sole discretion, elect to substitute Services or portions of a Service, including, but not limited to, software, to enhance features and performance of the product. Any substitutions will be made in accordance with NBUSA's policies in effect on the date of the substitution and Client agrees to cooperate with NBUSA in any such substitution.
10. **Assignment:** Client cannot assign, transfer, resell, lend, or otherwise dispose of the Services without the express written consent of NBUSA.
11. **Contract Duration:** The initial term of this Agreement is specified in the signature page. Client acknowledges that the contract cannot be terminated early. Should Client desire to terminate services before the end of the initial period, Client will be subject to pay the full amount of the remaining contract period.
12. **Product Upgrades.** Network Box Corporation, Limited continually upgrades and revises its products and service offerings to provide its Clients with new products and service offerings. NBUSA may revise and/or discontinue Services at any time without prior notice to Clients.
13. **CONDITIONS TO USE OF SERVICES:** Client's use of the Services is conditioned upon Client doing all of the following at Your own expense:
 - 13.1 Your account for Services must be current.
 - 13.2 Your account must be paid in full to be utilizing the Services for Your own account and not on behalf of any other person or entity.
 - 13.3 You must designate a Technical Contact Person who shall be responsible for making and receiving all communications with NBUSA with respect to the Services to be provided hereunder and notify NBUSA in writing of such person's full name, title, telephone, fax and email address.
14. **CLIENT CONTACT:** Client will designate at least one person as its technical contact ("Client Representative") for dealing with service, upgrades and configuration changes. Client shall provide the name, title, phone number, email address, mail address and other information as requested by NBUSA from time to time. Client may designate as many Client Representatives as it deems necessary. All contacts from Client must be made via the Client Representatives. NBUSA will not reply to requests for service made by unauthorized Client personnel.
15. **STANDARD HOURS OF SUPPORT:** Standard Hours of Support are defined as follows: business hours between **08:30AM** and **05:30PM Central Time**, excluding Saturdays, Sundays and recognized holidays. NBUSA will publish its recognized holidays at the beginning of every year and will communicate the holiday calendar to You via email. In the event Client requests Support outside of the Standard Hours, Support will either be provided during the following business hours, or will be subject to an additional charge at NBUSA's standard rates.
16. **SERVICES:** For so long as this Service Agreement is in effect NBUSA will provide the following Services to You:
 - 16.1 Email antivirus and antispam scanning for inbound and outbound emails for your domains
 - 16.1.1 Standard AV scanning is performed with the additional use of 2 OEM products – Kaspersky Labs AV, and Bitdefender AV. Client has the option to choose not to use Kaspersky Labs AV.
 - 16.2 Email queuing for up to 7 days
 - 16.3 Email quarantining for up to 30 days
 - 16.4 Email archiving for up to 2 years
 - 16.5 Email encryption (extra charges apply)
 - 16.6 User Portal report, issued at 3 AM and 3 PM every day (this schedule is subject to change)
 - 16.7 NBUSA will update its MCES service on a 24/7 basis with *signatures updates* for antivirus, anti spam and any other software which may need such updates.
 - 16.8 NBUSA will make configuration changes, as requested by You via the online ticketing system called "Boxoffice", during the **Standard Hours of Support**. Response times for **Standard Hours of Support** are set forth in paragraph 18. Response outside of **Standard Hours of Support** will be the next business day.



- 16.8.1 NBUSA maintains your configuration and makes changes to it according to your requests.
- 16.9 NBUSA will provide assistance for issue resolution related to issues caused or somehow related to the MCES services, during the **Standard Hours of Support**. Response times are set forth in paragraph 18.
- 16.10 For Level 1 issues that are not inherently caused by “Product”, NBUSA may provide assistance in troubleshooting and problem resolution, and reserves the right to **invoice You at its standard hourly service rate calculated every 15 minutes**.
- 16.11 **All levels of service explicitly exclude any kind of consulting service aimed at:**
- analyzing data provided by the Network Box logs;
 - optimizing the client’s network;
 - troubleshooting a problem within the client’s environment clearly not related to the MCES service;
 - any other service not related with the scanning, queuing and delivering of your emails.
- NBUSA will, if requested by the client, provide consulting services, for a Time and Material fee charged at its standard rate effective at the time the service is rendered and calculated every 15 minutes.
- 17. ISSUE CLASSIFICATION:** Any individual request by You for Services hereunder shall be referred to as an Issue. NBUSA shall provide You with support for Issues reported with respect to the Product in accordance with the provisions of this Section. Issues shall be classified as follows:
- 17.1 **Level 1** - Problems with emails that have an immediate impact on Your operations and cause business interruption.
- 17.2 **Level 2** - Configuration Change Requests.
- 18. ISSUE RESOLUTION AND SUPPORT:**
- 18.1 Issues must be submitted to NBUSA only by authorized contacts within Your organization as defined in paragraph 13.
- 18.2 You shall submit to NBUSA, through the currently recommended response mechanism, a description of the Issue and the circumstances under which the Issue occurred. The recommended response mechanism at this time is the online ticketing system known as Boxoffice, at the URL <http://us.boxoffice.network-box.com>. You may call the support center at the then published support number, only after having submitted an online ticket via Boxoffice, unless technical issues do not allow You to do so.
- 18.3 **Response Time based on Issue Classification:**
- 18.3.1 **Level 1 Issues – Problems with emails:** NBUSA shall acknowledge Level 1 issues as rapidly as possible but under all circumstances within **one (1) business hour** following receipt of an Issue Report. In addition, NBUSA shall promptly assign a qualified support resource to provide, within one business hour of submission by You of the Issue Report, all possible assistance to investigate the Issue and commence to provide a workaround or a correction for such Issue. NBUSA shall use commercially reasonable efforts to correct such Issue or provide a workaround within one business hour following receipt of the Issue Report. If NBUSA fails to provide such workaround or correction within one hour following receipt of the Issue Report, then NBUSA will provide a plan of action and, if feasible, a workaround as a temporary solution to allow You to use Your email until the issue is actually resolved.
- 18.3.2 **Level 2 issues – Configuration Changes:** NBUSA shall acknowledge Level 2 requests within **four (4) business hours** following receipt of the request. NBUSA will assess the requested changes and implement them. Under the terms of the Standard SLA, any requested Configuration Change will be conducted during NBUSA’s **Standard Hours of Support**.
- 18.3.2.1 In no circumstance shall a configuration change request be considered a Level 1 issue requiring urgent remedy.
- 19. ESCALATION PROCEDURES:** If You believe You are not receiving support as specified in Section 16, You may escalate Issues directly to the CTO of NBUSA. Appropriate contact information will be provided as necessary.
- 20. CONFIDENTIALITY:** Because of the type of service NBUSA provides, it is possible that NBUSA employees may come in possession of confidential information belonging to You, and your employees may come in possession of confidential information belonging to NBUSA. As part of this Service Agreement, the Parties agree to enter in a mutual Non Disclosure Agreement, as follows:
- 20.1 The receiving Party will not use or disclose any Confidential Information without the disclosing Party’s prior written consent, except to the receiving Party’s employees or consultants on a need-to-know basis, provided that such employees or consultants have executed written agreements restricting use or disclosure of such Confidential Information that are at least



- as restrictive as the receiving Party's obligations. In addition to the foregoing nondisclosure obligations, the receiving Party agrees to use at least the same care and precaution in protecting such Confidential Information as the receiving Party uses to protect the receiving Party's own confidential and proprietary information and trade secrets, and in no event less than reasonable care. The receiving Party shall return all Confidential Information promptly upon the request of the disclosing Party or upon termination of this Agreement. Confidential Information received by a Party under this Agreement shall not be copied without the prior written consent of the disclosing Party.
- 20.2 Upon request from the disclosing Party, the receiving Party shall immediately return to the disclosing Party all Confidential Information and copies thereof, or if directed by disclosing Party, shall immediately destroy or de-install such Confidential Information and all copies, and shall furnish proof of their destruction to the disclosing Party.
- 20.3 Neither Party shall be bound by the obligations restricting disclosure and use set forth in this Agreement with respect to Confidential Information, or any part thereof, which: (a) was known by the receiving Party prior to disclosure, as evidenced by its business records; (b) was lawfully in the public domain prior to its disclosure, or becomes publicly available other than through a breach of this Agreement; (c) was disclosed to the receiving Party by a third party provided such third party or any other party from whom such third party receives such information is not in breach of any confidentiality obligation in respect of such information; (d) is independently developed by the receiving Party, as evidenced by its business records; or (e) is disclosed when such disclosure is compelled pursuant to legal, judicial, or administrative proceeding, or otherwise required by law, subject to the receiving Party giving all reasonable prior notice to the disclosing Party to allow it to seek protective or other court orders.
- 20.4 The obligations of confidentiality set forth herein will continue for so long as the disclosing Party maintains the information disclosed as confidential. Termination of the business relationship between the parties does **not** terminate the requirement for confidentiality. Should the Network Box appliance be returned to NBUSA at the end of the contract terms, NBUSA will take reasonable precautions to avoid the accidental release of any information still stored on the hard drive of the appliance and will delete the data from the hard drive and, where applicable, destroy it.
- 20.5 Each Party acknowledges that due to the unique nature of the other Party's Confidential Information, the disclosing Party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, in equity or otherwise, the disclosing Party shall be entitled to seek injunctive relief to prevent such unauthorized use or disclosure.

21. LIMITED WARRANTY AND REMEDY:

- 21.1 ANY REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE PRODUCT, SOFTWARE, UPDATES AND DOCUMENTATION ARE THOSE EXPRESSLY MADE BY NBUSA IN THIS PRODUCT AGREEMENT.
- 21.2 NBUSA warrants that the Services will be performed in a good and workmanlike manner. The sole, entire and exclusive liability of NBUSA and the sole, exclusive and entire remedy in the event of any breach of the foregoing warranty shall be that, at the sole option of NBUSA in its sole discretion, NBUSA shall either (a) re-perform the Services in question or (b) refund the Fees associated with such Services. THE FOREGOING IS THE SOLE, ENTIRE AND EXCLUSIVE WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, MADE BY OR ON BEHALF OF NBUSA, ITS AGENTS, SUPPLIERS AND SUBDISTRIBUTORS RESPECTING THE SERVICES. ANY AND ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR USE OR PURPOSE ARE HEREBY EXPRESSLY DISCLAIMED IN THEIR ENTIRETIES. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE.
- 21.3 NEITHER NBUSA NOR ANY PERSON OR ENTITY THAT HAS BEEN INVOLVED IN THE DESIGN, DEVELOPMENT, PRODUCTION, DISTRIBUTION, ADVERTISING, MARKETING OR DELIVERY OF THE PRODUCT OR ANY OF ITS COMPONENTS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, OR INCIDENTAL DAMAGES ARISING DIRECTLY OR INDIRECTLY OUT OF THE SERVICES HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE) OR OTHERWISE EVEN IF NBUSA OR OTHERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CLAIM. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.
- 21.4 NBUSA SHALL HAVE NO LIABILITY FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER SPECIAL, CONSEQUENTIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF NBUSA, ITS AGENTS AND SUPPLIERS, SUBDISTRIBUTORS OR RESELLERS CONCERNING ANY CLAIM ARISING FROM OR RELATING TO THIS SERVICE AGREEMENT AND/OR ANY SERVICES PROVIDED HEREUNDER, EXCEED THE AMOUNT OF FEES PAID BY YOU FOR THE APPLICABLE.
- 21.5 EACH PERSON OR ENTITY SIGNING AS CLIENT IS JOINTLY AND SEVERALLY LIABLE WITH ANY OTHER SIGNER OF THIS AGREEMENT, AND ANY ACTION ON CLIENT'S PART OR NOTIFICATION TO CLIENT SHALL BE IMPUTED TO ANY OTHER SIGNER.



22. **Client Representations.** Client agrees to comply with the terms and conditions of the SLA and all applicable laws and regulations of the various States and of the United States. Client represents that it is buying all Products for its own internal use only, and not for resale, export or as a Service Bureau provider.
23. **INDEMNIFICATION:** Client agrees to and shall indemnify, defend and hold harmless NBUSA and its suppliers, subdistributors and agents, officers, directors and managing agents from and against any and all claims, demands, suits, causes of action, loss, liability or harm arising from any breach of this Agreement by You including without limitation all reasonable attorney's fees, costs and expenses. NBUSA agrees to hold you harmless should any liability of copyright infringement arise from the use of the Network Box Product.
24. **MISCELLANEOUS:** This Agreement constitutes the sole, entire and exclusive understanding and agreement with respect to its subject matter. This Agreement shall be governed by the laws of the State of Texas without regard to choice of law principles. The State and Federal courts in and for Harris County, Texas shall have exclusive jurisdiction over any cause or controversy arising under the terms of this Service Agreement or between the parties as a result of action taken or failure to act by either party pursuant to the terms of this Service Agreement. This Agreement shall inure to the benefit of NBUSA, its agents, suppliers and authorized subdistributors and may not be modified or waived except pursuant to a writing signed by an authorized representative of NBUSA. The headings used in this Agreement are for convenience of reference only. Such headings form no part of the terms and/or conditions of this Agreement and shall not be used to construe, expand, limit or modify any of the express terms or conditions of this Agreement.
25. **Severability.** Any provision of this Agreement that is held invalid shall be struck and the remaining provisions shall be valid and applied without the invalid provision
15. **ASSIGNMENT:** This Agreement may not be assigned by You without the prior written consent of NBUSA acting in its reasonable discretion. NBUSA may assign or delegate performance of this Service Agreement upon prior written notice to You.
16. **ACKNOWLEDGEMENTS:** YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. YOU ALSO AGREE THAT THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF AGREEMENT BETWEEN THE PARTIES AND SUPERSEDES AND CANCELS ALL PROPOSALS OR PRIOR AGREEMENTS, VERBAL OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT. YOU ACKNOWLEDGE AND AGREE THAT YOUR DECISIONS TO PURCHASE AND USE THE PRODUCT WERE NEITHER INDUCED BY NOR MADE IN RELIANCE UPON ANY REPRESENTATION, WARRANTY, STATEMENT, PROMISE, UNDERSTANDING OR INDUCEMENT NOT EXPRESSLY SET FORTH IN WRITING IN THIS AGREEMENT.