

BLACKBERRY SOLUTION LICENSE AGREEMENT

This BlackBerry Solution License Agreement (the “**Agreement**” or “**BBSLA**”) is a legal agreement between you on behalf of a company or other entity as its representative (“**You**” or “**Customer**”) and BlackBerry Limited or its Affiliate as set forth in subsection 13(a) below (“**BlackBerry**”) regarding the use of certain BlackBerry Software and BlackBerry Services (as defined below). Together You and BlackBerry are the “**Parties**” and individually a “**Party**”.

BY CLICKING ON THE APPROPRIATE BUTTON BELOW, OR BY INSTALLING, ACCESSING OR USING ANY BLACKBERRY SOFTWARE OR BLACKBERRY SERVICE, YOU ARE AGREEING TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, OR IF YOU ARE NOT AUTHORIZED TO ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF CUSTOMER, DO NOT COPY, INSTALL, ACCESS OR USE ANY BLACKBERRY SOFTWARE OR BLACKBERRY SERVICE.

1. Definitions.

- (a) “**Affiliate**” means, with respect to any legal entity, any other entity controlling, controlled by, or under common control with such entity.
- (b) “**Authorized Users**” means Customer’s employees and independent contractors.
- (c) “**Anonymous Data**” means data generated by processing and/or aggregating Customer Data so that results are non-personally identifiable with respect to Customer or its Authorized Users; and any results, logs, and/or other data regarding use of the BlackBerry Solution.
- (d) “**Beta Products**” means any pre-commercial release or evaluation versions of BlackBerry Software or BlackBerry Services made available to Customer by BlackBerry under additional terms and conditions.
- (e) “**BlackBerry Services**” means any paid service made available by or on behalf of BlackBerry hereunder and identified as a BlackBerry service, including cloud services made available via the BlackBerry Software, but excluding any Third Party Items.
- (f) “**BlackBerry Software**” or “**Software**” means any BlackBerry proprietary enterprise software (and any licensed third party software embedded therein) in object code form only (and not source code) provided hereunder, including server software, client software, personal computer software and interfaces and Documentation. BlackBerry Software shall include any upgrades, updates or modified versions of the BlackBerry Software that may be provided to Customer by BlackBerry at its sole discretion, but excludes any Third Party Items.
- (g) “**BlackBerry Solution**” means BlackBerry’s proprietary enterprise solution or service comprised of any component(s) or portion(s) of BlackBerry Software and/or BlackBerry Services and applicable Documentation.
- (h) “**Customer Data**” means any data, files, messages, executable files or code, system activity uploaded, inputted or otherwise submitted by Customer and/or its Authorized Users to BlackBerry or collected from the Customer and/or its Authorized Users through the normal operation of the BlackBerry Solution, and any other Customer Data specified in the Documentation.
- (i) “**Documentation**” means any applicable BlackBerry end user documentation provided by BlackBerry (excluding any marketing or promotional materials).
- (j) “**Endpoints**” means wireless devices, desktops, computer systems and any other endpoints with which the BlackBerry Solution operates.
- (k) “**Intellectual Property Rights**” means any patents, copyrights, trademarks, industrial designs, trade secret, confidential information or other proprietary right.
- (l) “**Malware**” means any software or content that contains any virus, trojan horse, worm, backdoor, shutdown mechanism, sniffer, bot, drop dead mechanism, spyware, malicious, or similar code.
- (m) “**Reverse Engineer**” means any act of reverse engineering, translating, disassembling, decompiling, decrypting or deconstructing data, software (including interfaces, protocols, and any other data included in or used in conjunction with programs that may or may not technically be considered software code) or services or any method or process of obtaining or converting any information, data or software from one form into a human-readable form.
- (n) “**Technical Support Services**” means technical support and maintenance services provided by BlackBerry.
- (o) “**Third Party Items**” means Customer or any third party: (i) software; (ii) content; (iii) services, including internet connectivity, systems, wireless networks and non-BlackBerry websites; and (iv) devices, servers, equipment and other hardware products.

2. License.

- (a) **Limited License.** Subject to this Agreement and Customer’s payment of all applicable fees, BlackBerry grants Customer a personal, revocable, non-exclusive, non-transferable license to internally install, access and/or use the BlackBerry Solution solely for the purpose specified in the Documentation and subject to the usage and time limitations based on the quantity and type of licenses and term of the licenses acquired by Customer pursuant to an accepted BlackBerry order. Customer may authorize its Authorized Users to exercise the foregoing rights provided that Customer shall be responsible for its Authorized Users’ use of the BlackBerry Solution.

(b) **Trial License.** If a BlackBerry Solution is provided by BlackBerry to Customer for internal testing purposes ("Trial"), the license set out above shall be of a sixty (60) day limited duration from when the BlackBerry Solution is made available by BlackBerry to Customer unless stated otherwise by BlackBerry in writing ("Trial Period") and shall apply solely to the extent necessary to perform the Trial. Notwithstanding anything to the contrary in this Agreement, such license shall automatically terminate upon the expiry of the Trial Period, or earlier if Customer breaches any provision of this Agreement, and subsection 12 (d) of this Agreement shall apply. The Trial Period may be extended or terminated by BlackBerry in writing at any time in its sole discretion.

3. **Technical Support Services.** Any Technical Support Services acquired by Customer, including as part of a BlackBerry Software subscription, are provided subject to: (i) this Agreement; (ii) the Technical Support Services program description found at www.blackberry.com/supportprogramdescriptions (or such other site as may be made available to Customer by BlackBerry from time-to-time), as may be amended by BlackBerry and which is incorporated herein by this reference; and (iii) Customer's payment of all applicable fees for the requisite time period and number and type of licenses acquired by Customer pursuant to an accepted BlackBerry order. Customer agrees that it may be required to update BlackBerry Software and/or Third Party Items to continue to access or use the BlackBerry Solution, Third Party Items or portions thereof.

4. **Rules of Use for BlackBerry Solution.** Customer acknowledges and agrees that:

- (a) Customer has the right and authority to enter this Agreement and has any necessary consents from its Authorized Users as may be required by applicable law;
- (b) Customer shall not, or attempt to, sell, rent, lease, use for timeshare or service bureau purposes, sublicense or transfer the BlackBerry Solution;
- (c) Customer and its Authorized Users shall not take any action to: (i) upload, transmit, or otherwise make available any Malware, unless expressly permitted by BlackBerry in writing as required to provide the BlackBerry Solution; (ii) gain unauthorized access to any component or portion of the BlackBerry Solution, other accounts, computer systems or networks connected to a BlackBerry Solution, or obtain or attempt to obtain any materials or information made available through any component or portion of the BlackBerry Solution not intentionally made available by BlackBerry to Customer; or (iii) take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the BlackBerry Solution. In addition, Customer and its Authorized Users shall not permit any third party to take any of the actions outlined in (i) – (iii) above. If Customer becomes aware of the existence of any of such activities, Customer shall promptly notify BlackBerry in writing;
- (d) Customer and its Authorized Users shall not copy, host, publish, distribute or modify the BlackBerry Software, or any content made available to Customer as part of the BlackBerry Solution, in whole or in part, except for copying as reasonably necessary for back-up purposes;
- (e) Customer and its Authorized Users shall not disclose the results of any benchmark testing, technical results or other performance data relating to the BlackBerry Solution without BlackBerry's prior written consent;
- (f) The BlackBerry Solution contains valuable trade secrets, proprietary and confidential information of BlackBerry and/or its Affiliates. Customer and its Authorized Users shall not: (i) disclose or make available, directly or indirectly, the BlackBerry Solution (including any content made available to Customer related to the BlackBerry Solution) to any third party; (ii) use the BlackBerry Solution except as set forth herein; or (iii) alter, modify, adapt, create derivative works of, translate, deface, or Reverse Engineer any software, or any content, made available to Customer as part of the BlackBerry Solution, in whole or in part, or permit, acquiesce, authorize or encourage any other entity or person to do so;
- (g) BlackBerry may monitor Customer's and its Authorized Users' use of the BlackBerry Solution to determine compliance with this Agreement and Customer and its Authorized Users shall provide information requested by BlackBerry necessary for such purpose. BlackBerry may, through an independent auditor and/or itself, audit Customer's and its Authorized Users' use of and/or access to the BlackBerry Solution. If Customer is found to have exceeded its authorized usage and/or access, Customer shall, among other things, pay to BlackBerry: (i) any additional amounts due based on BlackBerry's then current price list; (ii) BlackBerry's reasonable costs associated with such audit; and (iii) interest on the amounts due to BlackBerry at the maximum rate permitted by law. Any refusal by Customer to provide requested information and/or cooperate with an audit, or to promptly pay amounts found owing to BlackBerry as a result of such audit, shall be deemed to be a material breach of this Agreement;
- (h) Subject to the terms of an applicable BlackBerry order or Documentation, an Authorized User will be considered provisioned where the Authorized User is assigned the ability to access the BlackBerry Software, regardless of whether an Authorized User has accessed or utilized the BlackBerry Software. Provisioned Authorized Users will be counted to determine whether a Customer is within (or has exceeded) its licensed usage of the BlackBerry Software. Customer is solely responsible for ensuring that it does not provision Authorized Users in excess of its license rights;
- (i) Customer assumes sole responsibility and liability for: (i) the establishment of appropriate security measures to control access to the licensed BlackBerry Solution, including for Endpoints; (ii) Customer's selection, use, access, cost or implementation of any Third Party Item, regardless of how Customer acquires or obtains access to the Third Party Item, or whether any such Third Party Items are required in order to use all or any part of, or operate in conjunction with, the BlackBerry Solution; and (iii) informing its Authorized Users of any functions to be performed on their devices;

- (j) BlackBerry may, without any liability to Customer or any Authorized User, modify, suspend, discontinue or place limits on the BlackBerry Solution or any part thereof, including: (i) periodically suspending use of and/or access thereto, or otherwise taking it out of operation in order to do maintenance and support of BlackBerry Software or BlackBerry Services; (ii) if Customer's or its Authorized Users' use of and/or access to the BlackBerry Solution or any part thereof poses a security or other risk to the software or service or any third party or adversely impacts the software or service; (iii) if required by law or regulation or in BlackBerry's opinion it is or may be subject to liability as a result of operating the BlackBerry Solution or any part thereof; or (iv) if Customer and/or an Authorized User is in breach of this Agreement; and
- (k) Customer and its Authorized Users shall comply with all applicable laws, ordinances, codes, regulations and policies applicable to Customer's receipt or use of and/or access to the BlackBerry Solution.

5. Ownership and Intellectual Property.

- (a) Customer acknowledges and agrees that it does not acquire any Intellectual Property Rights in or relating to the BlackBerry Solution or any translation or other derivative work thereof. Customer agrees that it shall not refute or otherwise challenge BlackBerry's and/or any of its Affiliates' ownership of any such Intellectual Property Rights. All comments, ideas, changes or other feedback provided by Customer and/or any Authorized User to BlackBerry regarding the BlackBerry Solution shall be owned by BlackBerry. All rights, title and interest not expressly granted herein are reserved by BlackBerry.
- (b) As between the Parties, Customer retains the ownership (including any Intellectual Property Rights) in and to the Customer Data.

6. LIMITED WARRANTY AND DISCLAIMER.

- (a) If during the ninety (90) day period following BlackBerry making the Software available to Customer for electronic download, the BlackBerry Software is not capable of performing the material functions described in the Documentation when used as specified by BlackBerry in the Documentation applicable to the specific type and version of the BlackBerry Software, BlackBerry shall make reasonable efforts to correct or provide a workaround for such problem (which fix or workaround may be provided to Customer at BlackBerry's reasonable discretion in one of a variety of forms).
- (b) Any obligations of BlackBerry under this Section 6 shall not apply to trial software or Beta Products or if the failure of the BlackBerry Software to perform the material functions described in the Documentation is due to: (i) use of the BlackBerry Software in a manner inconsistent with any of Customer's obligations set out in this Agreement or in a manner inconsistent with the instructions in the Documentation applicable to the specific type and version of the BlackBerry Software; (ii) a malfunction or other problem related to any Third Party Item; or (iii) any external causes affecting the BlackBerry Software, correction of errors attributable to software other than the BlackBerry Software, or defects due to repairs or modifications not authorized by BlackBerry in writing.
- (c) CUSTOMER ACKNOWLEDGES AND AGREES THAT WHERE THE BLACKBERRY SOLUTION IS DESIGNED TO INTEROPERATE WITH OR FACILITATE CUSTOMER'S ACCESS TO THIRD PARTY ITEMS, BLACKBERRY HAS NO CONTROL OVER THE FUNCTIONALITY, DELIVERY, USE OR PERFORMANCE OF SUCH THIRD PARTY ITEMS.
- (d) CUSTOMER ACKNOWLEDGES AND WARRANTS THAT CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR: (I) VERIFYING THE ACCURACY AND ADEQUACY OF ANY INPUT, OUTPUT OR ALERT INTO OR FROM THE BLACKBERRY SOLUTION; OR, (II) CUSTOMER'S DECISION TO ALLOW OR MAINTAIN ANY MALWARE OR VULNERABILITY ON OR TO CUSTOMER'S (OR ITS AUTHORIZED USERS') ENDPOINTS, SYSTEMS OR NETWORKS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, CUSTOMER WAIVES ANY AND ALL CAUSES OF ACTION OR CLAIMS AGAINST BLACKBERRY ARISING FROM OR RELATING TO THIS SUBSECTION (D).
- (e) THE CUSTOMER ACKNOWLEDGES AND AGREES THAT THE BLACKBERRY SOLUTION IS NOT DESIGNED OR INTENDED FOR USE IN ANY HAZARDOUS ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE OR OPERATION, NOR IS IT INTENDED FOR THE OPERATION OF NAVIGATION, NUCLEAR FACILITIES, WEAPONS SYSTEMS, LIFE-SUPPORT SYSTEMS, OR ANY APPLICATION OR INSTALLATION WHERE FAILURE COULD RESULT IN DEATH, SEVERE PHYSICAL INJURY OR PROPERTY DAMAGE.
- (f) EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE BLACKBERRY SOLUTION IS PROVIDED "AS IS" AND ALL CONDITIONS, ENDORSEMENTS, GUARANTEES, ASSURANCES, REPRESENTATIONS AND WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE BLACKBERRY SOLUTION ARE HEREBY DISCLAIMED AND EXCLUDED, INCLUDING THOSE OF FITNESS FOR A PARTICULAR PURPOSE OR USE, MERCHANTABILITY, NON-INFRINGEMENT, SATISFACTORY QUALITY AND TITLE. BLACKBERRY DOES NOT WARRANT OR PROVIDE ANY OTHER SIMILAR ASSURANCE WHATSOEVER: (I) OF UNINTERRUPTED OR ERROR-FREE USE OR OPERATION OF THE BLACKBERRY SOLUTION; (II) THAT ALL THREATS, VULNERABILITIES, ATTACKS OR MALWARE WILL BE DISCOVERED, REPORTED OR REMEDIED; (III) THAT CUSTOMER DATA, SYSTEMS OR NETWORKS SHALL BE FREE FROM LOSS OR CORRUPTION; OR, (IV) THAT CONTENT SHALL BE TRANSMITTED WITHIN A REASONABLE PERIOD OF TIME.

7. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

- (a) IN NO EVENT SHALL BLACKBERRY BE LIABLE FOR: (I) INDIRECT, ECONOMIC, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES; (II) LOST PROFITS, REVENUE OR EARNINGS, LOST

OR CORRUPTED DATA, DELAYS OR FAILURE TO TRANSMIT OR RECEIVE ANY DATA, BUSINESS INTERRUPTION, FAILURE TO REALIZE EXPECTED SAVINGS AND COST OF SUBSTITUTE SOFTWARE OR SERVICES; AND (III) DAMAGES RELATED TO OR ARISING OUT OF ANY THIRD PARTY ITEMS;

(b) NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF BLACKBERRY EXCEED THE AMOUNTS RECEIVED BY BLACKBERRY FROM CUSTOMER FOR THE PORTION OF THE BLACKBERRY SOFTWARE, OR THE RELEVANT PERIOD OF THE BLACKBERRY SERVICE, WHICH IS THE SUBJECT MATTER OF THE CLAIM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE INCIDENT GIVING RISE TO THE LIABILITY; AND

(c) THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET OUT IN THIS AGREEMENT SHALL APPLY: (I) WHETHER AN ACTION, CLAIM OR DEMAND ARISES FROM A BREACH OF WARRANTY OR CONDITION, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTORY LIABILITY OR ANY OTHER THEORY OF LIABILITY; (II) WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR POSSIBILITY HAS BEEN DISCLOSED TO BLACKBERRY; AND (III) TO BLACKBERRY, ITS AFFILIATES, AND THEIR RESPECTIVE SUPPLIERS, SUCCESSORS AND ASSIGNS.

8. **Beta Products.** Customer acknowledges and agrees that: (i) Beta Products may not be authorized for commercial use or certified by government or other authorities and BlackBerry makes no representation that such authorization or certification shall be obtained or that the Beta Products shall be commercially released or released without changes; (ii) Beta Products are not intended for use in any productive or other environment where Customer is relying on the performance of the Beta Products; (iii) Beta Products are not intended to represent or perform in the same manner as commercial software or services and Customer should ensure that it regularly backs up any data used with such materials; and (iv) all testing and evaluation that it conducts of Beta Products and related software and services is done entirely at Customer's own risk. The Beta Products shall be made available for a period of up to ninety (90) days, unless stated otherwise by BlackBerry in writing. The period of availability of the Beta Products may be extended or terminated by BlackBerry at any time in its sole discretion. BlackBerry may require Customer to promptly return the evaluation or beta copies of the Beta Products and remove all copies of such Beta Products from its systems.

9. **Data Use and Anonymous Data.** Customer, on its own behalf and on behalf of its Authorized Users, grants BlackBerry a non-exclusive, sub-licensable, transferable, worldwide, royalty-free, perpetual right and license to collect, use, copy, store, transmit, modify, and create derivative works of the Customer Data (collectively "**Process**" or "**Processing**") to the extent necessary to provide the BlackBerry Solution to Customer and in order to generate Anonymous Data. Customer agrees that BlackBerry has the right to generate Anonymous Data and that Anonymous Data is owned by BlackBerry, which BlackBerry may use for any lawful business purpose (including, without limitation, to develop and improve the BlackBerry Solution and to create and distribute reports and other materials). Customer warrants and covenants that it has the right to grant to BlackBerry such licenses.

10. **Personal Data and Privacy Notice.** Customer, on its own behalf and on behalf of its Authorized Users: (i) agrees that BlackBerry and its Affiliates and their respective service providers may Process Customer Data for the purposes set out in this Agreement and in BlackBerry's Privacy Notice, as may be amended from time-to-time by BlackBerry and which is incorporated by reference herein, the current version of which can be viewed at www.blackberry.com/legal; and (ii) represents and warrants that it has a lawful basis for such Processing, including collection of Authorized User's personal data as required for the use of the BlackBerry Solution, products or services used with the BlackBerry Solution and as contemplated in this Agreement.

11. **Indemnification.**

(a) Customer shall indemnify, hold harmless, and if requested by BlackBerry, defend, BlackBerry and its Affiliates and their successors and assigns and their respective directors, officers, employees, independent contractors and agents from and against any and all claims, proceedings, liabilities, losses, damages, costs and expenses (including reasonable legal fees and expenses) arising out of or in connection with any breach of this Agreement by Customer or an Authorized User. BlackBerry shall give Customer prompt written notice of any claim or proceeding. If BlackBerry has requested Customer to defend a claim or proceeding: (i) BlackBerry may at its option and expense participate in its defense or settlement; (ii) Customer shall not settle it in a manner that requires BlackBerry or any of its Affiliates to admit any liability; and (iii) if BlackBerry later has a reasonable basis to believe that Customer cannot or may not be able to fulfill its obligations under this subsection (a), then, without limiting Customer's obligations hereunder, BlackBerry shall be entitled to provide Customer with notice of its decision to defend the claim or proceeding, and thereafter to assume control of its defense and/or settlement.

(b) BlackBerry shall defend, or at its option settle, any claim brought against Customer and/or its directors, officers and Authorized Users ("**Customer Indemnitee(s)**") by a third party alleging that use of the BlackBerry Software infringes a third party copyright or patent right, and shall pay any damages finally awarded, to such third party by a court of competent jurisdiction or that is agreed to in a settlement by BlackBerry to the extent the BlackBerry Software is the basis of such a claim. This indemnification is conditional upon Customer Indemnitee(s) giving BlackBerry prompt written notice of any such claim and permitting BlackBerry to have sole control of the defense or settlement. BlackBerry shall not settle the

claim in a manner that requires Customer to admit any liability. Customer shall provide BlackBerry all reasonable information and assistance in connection with any such claim. If such a claim occurs, or if in BlackBerry's opinion is likely to occur, BlackBerry in its sole discretion may: (i) procure the right for Customer to continue to use the applicable BlackBerry Software; or (ii) modify or replace the applicable BlackBerry Software or infringing portion(s); or, if neither (i) nor (ii) is available or commercially practicable, (iii) terminate Customer's license to the affected portion of the BlackBerry Software and refund or credit a portion of the license fees paid by Customer on a pro rata basis corresponding with the remaining portion of the license term. BlackBerry shall have no obligations or liability under this subsection (b) to the extent that any claim is based upon or arises out of: (i) any modification or alteration to the applicable BlackBerry Software not made by or on behalf of BlackBerry; (ii) any combination or use of the applicable BlackBerry Software with equipment, software, services, products or systems not provided by BlackBerry; (iii) Customer's continued use of allegedly infringing BlackBerry Software after being notified; (iv) Customer's failure to use software updates or upgrades made available by BlackBerry; or (v) use of the BlackBerry Software other than in accordance with the applicable Documentation or outside the scope of the license granted under this Agreement. The remedies set forth in this subsection (b) constitute Customer Indemnitees' sole and exclusive remedies, and BlackBerry's entire liability, with respect to infringement or violation of third party intellectual property rights.

12. **Term and Termination; Survival.**

- (a) This Agreement commences upon Customer's agreement to be bound by the terms and conditions of this Agreement (as outlined at the beginning of this Agreement) and continues only for the term of the licenses acquired by Customer, subject to early termination as provided herein.
- (b) This Agreement may be terminated by either Party: (i) if the other Party materially breaches this Agreement and fails to cure it within thirty (30) days after written notice of the breach; and (ii) if the other Party ceases to carry on business in the ordinary course, becomes insolvent or the subject of voluntary or involuntary bankruptcy or liquidation proceedings, has a receiver, trustee or similar officer appointed with respect to the whole or substantial part of its assets, or is the subject of any creditor protection or proposal or similar arrangement under applicable law.
- (c) This Agreement may be terminated by BlackBerry upon a sale of all or substantially all the assets of Customer, any merger, consolidation or acquisition of Customer with, by or into another corporation, entity or person, or any change in the ownership of more than fifty percent (50%) of the voting shares of Customer in one or more related transactions.
- (d) Upon expiry or termination of either this Agreement or the provision of the BlackBerry Solution to Customer (which, for clarity, shall terminate this Agreement) for any reason:
 - (i) all licenses and rights provided to Customer under Section 2 of this Agreement shall immediately terminate and Customer shall not be entitled to any refund;
 - (ii) Customer and its Authorized Users shall immediately cease all use of and/or access to the BlackBerry Solution and delete and/or destroy all copies of BlackBerry Software that are in the possession or control of Customer and/or its Authorized Users and, on BlackBerry's request, confirm the same in writing signed by an officer of Customer;
 - (iii) BlackBerry shall have the right to block any use of and/or access to the BlackBerry Solution, and/or delete any files, programs, data and e-mail messages associated with any account of Customer or an Authorized User, without notice to Customer or the Authorized User;
 - (iv) BlackBerry may retain Customer Data pursuant to the terms of this Agreement, or for so long as may be required to comply with any law or regulation applicable to BlackBerry or any court, regulatory agency or authority to which BlackBerry is subject; and,
 - (v) Customer shall remain liable for all amounts due and shall pay all such fees immediately upon expiration or termination of this Agreement.

Where only a portion of the BlackBerry Solution expires or is terminated, the foregoing subsections (i) – (v) shall be limited to such portion and the Agreement shall continue for the remaining portion(s).

- (e) The following Sections of this Agreement shall survive its expiry or termination: Sections 1, 4 - 7 inclusive and 9 - 13 inclusive.

13. **General.**

- (a) **Applicable Law and Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws as specified below ("**Governing Law**"), excluding conflicts of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods. Except as expressly provided herein, each Party irrevocably consents and submits to the exclusive jurisdiction of the courts as specified below and waives any objection thereto on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law. As set out below, the Customer's primary address shall determine the Governing Law of this Agreement and, unless the BlackBerry entity is indicated on the BlackBerry order or binding quote, the contracting BlackBerry entity. Where Customer's primary address is located in:
 - (i) Canada, Caribbean, South America, or any other region or country not listed in subsections (ii) - (iv) inclusive below: "BlackBerry" means BlackBerry Limited and the Governing Law is the laws of the Province of Ontario, Canada and the courts of the city of Toronto, Ontario, Canada shall have exclusive jurisdiction;

- (ii) United States of America and Japan: "BlackBerry" means BlackBerry Corporation and the Governing Law is the laws of the State of California and the courts of the county of Santa Clara, California, U.S.A. shall have exclusive jurisdiction;
- (iii) Europe, the Russian Federation, Middle East or Africa: "BlackBerry" means BlackBerry UK Limited and the Governing Law is the laws of England and Wales and the courts of the city of London, England shall have exclusive jurisdiction; and
- (iv) Asia-Pacific (excluding Japan): "BlackBerry" means BlackBerry Singapore Pte. Limited and the Governing Law is the laws of the Republic of Singapore and the courts of the Republic of Singapore shall have exclusive jurisdiction.

(b) **Dispute Resolution.**

- (i) Any dispute, claim or controversy (collectively "**Claims**") arising out of or relating to this Agreement involving BlackBerry Corporation (or other BlackBerry entity where Customer's primary address is in the United States of America), including the determination of the scope, applicability or adjudicative process associated with this Agreement, shall be submitted to and determined by arbitration in the county of Santa Clara, California, U.S.A. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. For Claims of five million United States dollars (\$5,000,000), or less, the arbitration shall be administered pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Any judgment awarded by JAMS may be entered in any court having jurisdiction.
- (ii) With respect to any dispute, claim or controversy arising out of or relating to this Agreement involving BlackBerry Limited, BlackBerry UK Limited and BlackBerry Singapore Pte. Limited or other BlackBerry entity not covered by (b)(i), the Parties waive any right to a trial by jury with respect to any lawsuit or judicial proceeding arising or relating to this Agreement.

(c) **Force Majeure.** BlackBerry shall not be liable for its failure or delay in the performance of its obligations under the Agreement if such failure results from circumstances beyond its reasonable control, including but not limited to supplier strikes, lock-outs, labor disputes or availability, third party acts, war, riot, civil disorder, acts of terrorism, curtailment of transportation, work stoppages, epidemic, compliance with any law or governmental order, prohibition, rule, regulation or direction not in force on the date the Agreement commences. ("**Event of Force Majeure**"). If an Event of Force Majeure continues for more than thirty (30) working days, BlackBerry shall have the right to terminate, without liability, to Customer.

(d) **Injunctive Relief.** Notwithstanding anything to the contrary, the Parties agree that Customer's or any of its Authorized Users' breach of certain terms of this Agreement may cause irreparable harm to BlackBerry and/or its Affiliates for which damages shall be an inadequate remedy and BlackBerry may therefore seek injunctive or equitable relief in any court of competent jurisdiction without the requirement of posting a bond, in addition to all other remedies available to it.

(e) **Compliance with Laws, Export Control and U.S. Government Users.** Customer agrees that the BlackBerry Solution may include cryptographic technology, data or other information and shall not be received, exported, imported, used, transferred, distributed, accessed or re-exported except in compliance with the applicable laws and regulations of the relevant government authorities, including U.S. and Canadian export control and sanction regulations. Customer also represents and covenants: (i) not to, directly or indirectly, allow access to or use of the BlackBerry Solution in embargoed or sanctioned countries/regions, by sanctioned or denied persons, or for prohibited end-uses under U.S. or Canadian law; and, (ii) that Customer shall ensure that its receipt and use of and/or access to the BlackBerry Solution, or that of its Authorized Users, is in accordance with the restrictions in this subsection (e). If any part of the BlackBerry Solution is being licensed by the U.S. government, including any U.S. federal agency, the BlackBerry Solution is considered access to commercial computer software and documentation developed exclusively at private expense and the BlackBerry Solution is provided as a "commercial item" as that term is defined in FAR 2.101 (and as it is defined and used in all corresponding agency specific Federal Acquisition Regulation supplements) and is provided with only those rights specified in Section 2.

(f) **Assignment.** BlackBerry may assign this Agreement with notice to Customer. Customer shall not assign this Agreement in whole or in part, by operation of law or otherwise, without the prior written consent of BlackBerry and any assignment in breach of this provision shall be void and of no effect. BlackBerry may perform its obligations under this Agreement directly or may have some or all of its obligations performed by any Affiliate, contractor, subcontractor, services provider or third party.

(g) **Notices.** Any notice, request, demand or other communication required or permitted under this Agreement shall be in writing and delivered by hand or sent by registered mail or courier, effective on the date of receipt, addressed as follows: if to Customer, at the billing address supplied to BlackBerry by Customer and, if to BlackBerry, addressed to BlackBerry Limited at 2200 University Avenue East, Waterloo, Ontario, Canada N2K 0A7, Attention: Legal Department. A Party may from time-to-time change its address by notice in writing to the other Party delivered hereunder. In addition, BlackBerry may at its option deliver the foregoing notice or other communication to an e-mail address provided by Customer to BlackBerry, which shall be effective and deemed delivered when transmitted, and if Customer has provided BlackBerry with no such address, notice may be duly given when prominently posted on www.blackberry.com/legal.

(h) **Third Party Beneficiaries.** The provisions of this Agreement are for the benefit of Customer and BlackBerry and not for any other person or entity, whether under statute or otherwise, except for BlackBerry's Affiliates and suppliers of BlackBerry and its Affiliates.

- (i) **Additional Terms.** Customer's Authorized Users must obtain through a third party application store and install BlackBerry Solution client software for certain third party wireless device software platforms and Customer is responsible for ensuring its Authorized Users' compliance with the applicable client end user license agreement. Such client end user license agreement shall automatically terminate on expiry or termination of this Agreement or the provision of the BlackBerry Solution to Customer hereunder.
- (j) **Entire Agreement.** This Agreement, including any non-disclosure agreement and/or data protection agreement entered into by the Parties, is the complete agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements and understandings between the Parties applicable to the BlackBerry Solution. This Agreement may only be modified by the Parties by a written document executed by the Parties. Except to the extent expressly precluded by applicable law, BlackBerry may also modify this Agreement, including to reflect changes in law or business practices. Notwithstanding subsection 13(g), BlackBerry shall notify Customer of the change by a reasonable means of notice, including posting the revised Agreement at www.blackberry.com/legal and Customer should regularly visit the site to review the most current version of this Agreement. Customer agrees that its continued use of the BlackBerry Solution after the changes become effective shall constitute Customer's acceptance of the revised Agreement. If there is any inconsistency between this Agreement and any Documentation used with the BlackBerry Solution, the provisions of this Agreement shall apply to the extent of the inconsistency.
- (k) **Interpretation and Language.** Headings are inserted herein for convenience only and do not form part of this Agreement. As used herein: (i) "days" means calendar days; (ii) "include" and "including" are not limiting; and (iii) use of a BlackBerry Solution shall be deemed to include active or inactive use. If this Agreement is translated into a language other than English, the English version shall prevail to the extent that there is any conflict or discrepancy in meaning between the English version and any translation thereof. Notwithstanding the foregoing, BlackBerry acknowledges and agrees that the Japanese version of this Agreement shall not be construed to include section 13(n). Where Customer's primary address is located in Quebec, it is the express will of the Parties that this Agreement and all related documents be drawn up in English. C'est la volonté expresse des Parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.
- (l) **No Waiver.** The waiver by either Party of any right provided under this Agreement must be in writing signed by such Party and any waiver shall not constitute a subsequent or continuing waiver of such right or of any other right under this Agreement.
- (m) **Severability.** If any section, provision or part thereof of this Agreement is held to be illegal, invalid or unenforceable by a court of competent authority in any jurisdiction, that section, provision or part shall be limited if possible and only thereafter severed to the extent necessary to render this Agreement valid and enforceable in such jurisdiction.
- (n) **Marketing and Promotion.** From time-to-time, BlackBerry lists and/or mentions its customers in its marketing and communications initiatives. Customer agrees that BlackBerry may use Customer's name and logo worldwide, free of charge for such purpose for the duration of the Term. In addition, subject to applicable privacy law and BlackBerry's Privacy Notice, Customer expressly consents to BlackBerry contacting the Customer for marketing or promotional purposes.