

PLEASE READ VERY CAREFULLY THESE TERMS AND CONDITIONS BEFORE USING COMPANY'S SERVICES. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, PLEASE CLOSE YOUR BROWSER AND DO NOT PROCEED WITH USING THE SERVICES.

BY CLICKING "I AGREE" AND/OR USING COMPANY'S SERVICES, YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS MASTER SERVICES AGREEMENT, THE ATTACHED APPENDIXES A: MICROSOFT SOFTWARE USE-TERMS AND CONDITIONS AND B: RESEARCH IN MOTION USE-TERMS AND CONDITIONS, COMPANY'S ACCEPTABLE USE POLICY, COMPANY'S SERVICE LEVEL AGREEMENT (THE "SERVICE LEVEL AGREEMENT"), COMPANY'S PRIVACY POLICY AND COMPANY'S NO-SPAM POLICY, WHICH MAY BE FOUND AT [HTTP://WWW.MSOUTLOOKONLINE.NET/LEGAL](http://www.msoutlookonline.net/legal) (COLLECTIVELY, THIS "AGREEMENT").

This Master Service Agreement is by and between Company and the individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization, or government or political subdivision which is utilizing Company's exchange hosting and/or other services provided hereunder ("You").

In consideration of the mutual promises, covenants and agreements hereinafter set forth, Company and You agree as follows:

**1 Lawful Use of the Services.** You agree to use Company's exchange hosting and/or other services provided hereunder (the "Services") only for lawful purposes. In the event that Your use of the Services violates any law, rule or regulation, Company shall have the right to immediately terminate this Agreement.

**2 Provision of Services.** Company agrees to provide the Services to You in accordance with the Service Level Agreement. You hereby agree to comply with the terms and conditions of this Master Services Agreement, the Appendixes A: Microsoft Software Use-Terms and Conditions and B: Research in Motion Use-Terms and Conditions (attached hereto), Company's Acceptable Use Policy, Privacy Policy and No-Spam Policy, each of which are incorporated by reference herein. YOU SHALL AT ALL TIMES PROVIDE AND KEEP CURRENT AND UP TO DATE YOUR CONTACT, CREDIT CARD, IF APPLICABLE, AND BILLING INFORMATION ON THE ADMINISTRATIVE CONTROL PANEL.

**3 Term and Termination.**

a. Term. Unless defined otherwise between Company and You, the following shall apply: The Agreement term is either the Initial Term or Renewal Term (each, a "Term") as defined herein. The Initial Term is defined as the period from the date of Your initial payment or execution of this Agreement, whichever occurs earlier, through the remainder of the calendar month in which this Agreement was executed. The Renewal Term is defined as one calendar month beginning at the end of the Initial Term and each subsequent calendar month thereafter.

b. Automatic Renewal. This Agreement shall renew automatically at the end of the prior Term unless terminated in accordance with this Agreement either by You or by Company. When a new Term begins, the then current Master Service Agreement and Service Level Agreement shall replace in their entirety the previous Master Service Agreement and Service Level Agreement. The then current Master Service Agreement and Service Level Agreement shall be considered this "Agreement". Please review the then current Master Service Agreement and Service Level Agreement from time to time so that You will be apprised of any changes (<http://www.msoutlookonline.net/legal>).

3.1 Termination by You without cause.

a. You may terminate this Agreement at any time without cause by following the termination procedure located within the Account section of the Administrative Control Panel prior to the beginning of any Renewal Term. If You terminate without cause prior to the end of the then current Term, Company shall not be required to refund to You fees already paid.

b. Refunds/Fees for Termination by You without cause. Fees for non-recurring services and set up fees shall not be refunded. Any fees previously waived or discounts applied may be reinstated if You terminate the account for no cause during the term or if You breach this Agreement.

3.2 Termination by Company without cause. Company may terminate this Agreement without cause by providing written or electronic mail notice of termination to Your Administrative email contact address not less than fifteen (15) calendar days prior to the effective termination date.

3.3 Termination for Cause.

a. By You. To terminate Your account for Company's violation of the terms of this Agreement or the Service Level Agreement, You shall provide to Company's Administrative Contact in writing, via email or via certified mail, the details of Company's violation and allow Company thirty (30) days to cure any such violation prior to termination of Your account.

b. COMPANY MAY TERMINATE SERVICES TO YOU IMMEDIATELY AND WITHOUT PRIOR NOTICE (TERMINATION FOR CAUSE) FOR ANY OR ALL OF THE FOLLOWING REASONS:

1) ANY MATERIAL BREACH OF THIS AGREEMENT, WHICH INCLUDES BUT IS NOT LIMITED TO FAILURE TO MAKE PAYMENT WHEN DUE, VIOLATION OF THE COMPANY'S ACCEPTABLE USE OR NO SPAM POLICIES; OR ANY NON-MATERIAL BREACH OF THIS AGREEMENT WHICH REMAINS UNCURED BEYOND A REASONABLE TIME AFTER BREACH NOTIFICATION; AND FAILURE TO PROVIDE AND KEEP CURRENT ALL ADMINISTRATIVE CONTACT AND BILLING INFORMATION.

2) IN THE EVENT OF TERMINATION FOR CAUSE, COMPANY SHALL NOT REFUND ANY PAID FEES. TERMINATION FOR CAUSE WILL NOT CANCEL OR WAIVE ANY FEES OWED TO COMPANY PRIOR TO ACCOUNT TERMINATION.

3.4 Following Termination. TERMINATION OF YOUR ACCOUNT WILL NOT CANCEL OR WAIVE ANY FEES OWED TO COMPANY PRIOR TO OR UPON TERMINATION. YOUR DATA AND ACCOUNT SETTINGS SHALL BE IRREVOCABLY DELETED IMMEDIATELY UPON TERMINATION, INCLUDING BUT NOT LIMITED TO, WEB SITE CONTENT, DATABASES, AND EMAIL MESSAGES. IT SHALL BE SOLELY YOUR RESPONSIBILITY TO SECURE ALL NECESSARY DATA FROM YOUR ACCOUNT PRIOR TO TERMINATION.

**4 Fees, Billing, Taxes, Charges.**

4.1 Fees. The fees set forth in the order form created at the outset of Your account shall be effective for the Initial Term and each Renewal Term of this Agreement, provided, that Company shall have the right to increase these fees at any time upon thirty (30) days' written notice to You. In the event that You do not agree with such fee increase, You shall have the right to terminate this Agreement upon thirty (30) days' written notice, provided, that such notice of termination must be received within thirty (30) days of date of notice of the fee increase.

4.2 Billing and Payment Arrangements. Company will bill You on a monthly basis for all recurring and one-time fees, including but not limited to late payment fees, invoice processing fees and returned check fees.

4.3 Payment by Credit Card.

a. For payment by credit card, Company shall not provide an invoice to You. You may view and print an invoice for Your account using the Administrative Control Panel. On or about the first day of each month, Company will apply the current monthly charges to Your credit card, the number of which You entered on the Billing Information page in the Administrative Control Panel.

b. It is Your responsibility to keep Your credit card information up-to-date. In the event charges to Your credit card fail, Company shall email a warning to Your account billing contacts. If, after seven (7) days, Company is unable to bill Your credit card, Company will suspend Your access to the Services. During this suspension, incoming email as well as existing data will not be affected. After fourteen (14) days of non-payment

from the date Your credit card was initially charged, Company shall have the right to immediately terminate this Agreement.

4.4 Payment by Check.

Acceptance into Company's invoice program shall be at Company's sole discretion.

4.5 Excess use. You shall monitor and maintain Your accounts within all plan-specified limits and in a manner that does not disrupt the activities of other Company customers. In the event Your usage exceeds the limits for Your account or may disrupt the activities of other Company customers, You agree Company may, in its sole discretion, (i) charge You for such excess usage via Your credit card, or by invoice if You have been accepted into a check paying program, (ii) upgrade You to a plan or increase the limits on Your account to address this excess usage, and/or (iii) suspend or terminate Your account for cause. Usage and associated charges for excess usage shall be determined based solely upon Company's collected usage information. Unused monthly allotments shall not accrue or carry over from one month to any other month. Upon any upgrade or increase on the limits of Your Account, You shall be responsible for the new costs and fees.

4.6 Taxes. You shall be liable for taxes, governmental fees and assessments to be paid related to fees and charges arising under this Agreement or in connection with the Services. You shall also pay all taxes, fees, and assessments of any nature associated with products or services sold through the use of or with the aid of the Services.

**5 Modification of Terms.** Company may update, amend, modify or supplement the terms and conditions of this Agreement from time to time without notice to You. You can review the most current version of this Agreement at any time at: (<http://www.msoutlookonline.net/legal/>).

**6 Beta Products and Services.**

6.1 Provided "As Is". THIS SECTION APPLIES ONLY TO CUSTOMERS WITH ACCOUNTS CREATED ON EXPERIMENTAL "BETA" PLANS AND PLATFORMS. "BETA" SERVICES ARE PROVIDED TO YOU ON AN "AS IS" BASIS. COMPANY'S SERVICE LEVEL AGREEMENT SHALL NOT APPLY TO "BETA" PLANS OR PLATFORMS. NOTWITHSTANDING ANYTHING ELSE SET FORTH IN THIS AGREEMENT, COMPANY DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE "BETA" PLANS OR PLATFORMS NOR DOES IT MAKE ANY REPRESENTATIONS AND WARRANTIES REGARDING THE INTEGRITY OF DATA STORED ON "BETA" SERVERS. YOU ARE STRONGLY DISCOURAGED FROM USING ACCOUNTS ON "BETA" PLANS OR PLATFORMS FOR HOSTING ANY PRODUCTION APPLICATIONS OR FOR STORING SENSITIVE DATA.

6.2 Upgrades. Company shall upgrade software on "beta" programs when and as Company deems necessary in its sole discretion. Company does not represent or warrant that new versions of the software installed on "beta" programs will be compatible with the currently installed version or that loss of functionality or interruption of service will not occur as a result of such upgrades.

6.3 Termination. Company reserves a right to terminate any "beta" program at any time by giving You fifteen (15) days written or electronic mail notice. Company will convert the "beta" servers at the end of the fifteen (15) day notice period to an Company's Services Plan selected at Company's sole discretion. To discontinue the account and avoid incurring increased charges under selected Company Services Plan, You must terminate the account in accordance with the termination provisions in Section 3 of this Agreement.

**7 Materials, Data, Software or Products.**

7.1 Server Ready. Any material, data, software or products You provide to Company in connection with Company's services shall be Server Ready, meaning that they shall be in a condition and form, as determined solely by Company, which requires no additional manipulation or verification on the part of Company. Attempting to place or requesting placement of Non-Server-Ready material, data, software or products on Company's servers shall be a breach of this Agreement.

7.2 Rejection. Company may, in its sole discretion, reject material, data, software or products that You have placed, attempted to place, or have requested be placed on Company's servers. Company shall notify You of its

rejection and provide You with an opportunity to amend or modify such material, data, software or products to meet the requirements of Company.

7.3 **Malicious Code.** Any material, data, software or products placed on Company's servers by or through You shall be free of any and all malicious code, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, computer viruses and mechanisms that may disable or negatively impact the servers.

## **8 LIMITED WARRANTY; LIMITATION OF DAMAGES.**

8.1 COMPANY PROVIDES SERVICES "AS IS". YOU EXPRESSLY AGREE THAT USE OF COMPANY SERVICES IS AT YOUR SOLE RISK. COMPANY AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS, VENDORS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. YOU HEREBY AGREE THAT THE TERMS OF THIS AGREEMENT SHALL NOT BE ALTERED DUE TO CUSTOM OR USAGE OR DUE TO THE PARTIES' COURSE OF DEALING OR COURSE OF PERFORMANCE UNDER THIS AGREEMENT.

8.2 COMPANY AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS, VENDORS AND LICENSORS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR INFORMATION, AND THE LIKE, THAT RESULT FROM THE USE OR INABILITY TO USE THE SERVICES OR FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR DIRECTORIES, ERRORS, DEFECTS, DELAYS IN OPERATION, OR TRANSMISSION, REGARDLESS OF WHETHER COMPANY HAS BEEN ADVISED OF SUCH DAMAGES OR THEIR POSSIBILITY.

8.3 You agree that the total liability of Company and its subsidiaries, affiliates, officers, employees, agents, partners, vendors and licensors and Your sole remedy for any claims regarding the Services is limited to the credits set forth in the Service Level Agreement.

8.4 Company will exercise no control over the content of the information passing through Company's network except those controls expressly provided herein.

## **9 Patents, Copyrights, Trademarks, and Other Intellectual and Proprietary Rights.**

9.1 Except for rights expressly granted herein, this Agreement does not transfer any intellectual or other property or proprietary right to You. All right, title, and interest in any product or service provided to You, including without limitation any copyright, trade secret and vested or potential trademark and patent rights, is solely the property of Company and its vendors and licensors. You shall not reserve engineer, transfer, assign, copy, modify, reproduce or use any of product or service, hardware, software or otherwise which is provided in connection with the Services for purposes other than in conjunction with the permitted use of the Services.

9.2 You hereby represent and warrant to Company that You have the right to use any patented, copyrighted, trademarked or proprietary material which You use, post, or otherwise transfer to or by way of Company servers.

**10 Hardware, Equipment, and Software.** You are responsible for and must provide all phones, phone services, computers, software, hardware, and other services necessary to access the Services. Company makes no representations, warranties, or assurances that Your equipment will be compatible with Company services.

**11 Indemnification.** You shall defend, indemnify, save, and hold Company and its subsidiaries, affiliates, officers, employees, agents, partners, vendors and licensors harmless from any and all demands, liabilities, losses, costs, and claims, including reasonable attorneys' fees, asserted against them that may arise or result from Your breach of this Agreement, Your negligence or willful misconduct or any of Your services or products.

## **12 Miscellaneous.**

12.1 Governing Law; Jurisdiction; Forum; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to its conflicts of laws or its principles. You agree, in the event any claim or suit is brought in connection with this Agreement, to the exclusive jurisdiction and venue of the courts of Santa Clara County, California. In any action to enforce this Agreement, including, without limitation, any action by Company for the recovery of fees due hereunder, You shall pay Company reasonable attorneys' fees and costs in connection with such action.

12.2 Age and Capacity. You hereby represent and warrant that You and any person to whom You grant access to Your Company account have reached the age of eighteen and that You are not subject to a limitation on Your ability to enter into this Agreement.

12.3 Severability. In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any of the other provisions of this Agreement, and this Agreement shall be construed as if such provision(s) had never been contained herein, provided that such provision(s) shall be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

12.4 Waiver; Modification. No waiver by Company of any breach by You of any of the provisions of this Agreement shall be deemed a waiver of any preceding or succeeding breach of this Agreement. No such waiver shall be effective unless it is in writing signed by the parties hereto, and then only to the extent expressly set forth in such writing. No modification of this Agreement shall be effective unless it is in writing and signed by Company, and then only to the extent set forth in such writing. We may modify or amend this Agreement, including the Service Level Agreement and the rates and fees, from time to time. Unless otherwise provided in this Agreement, all such modifications or amendments shall be effective immediately upon posting on the Website. You may request a copy of the revised Agreement by e-mailing the Company's administrative contact. YOUR CONTINUED USE OF YOUR ACCOUNT AND/OR THE SERVICES AFTER THE NOTICE PERIOD WILL BE CONCLUSIVELY DEEMED TO BE ACCEPTANCE BY YOU OF ANY SUCH MODIFICATIONS OR AMENDMENTS.

12.5 No Assignment. No benefit or duty under this Agreement shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void.

12.6 Force Majeure. Except for monetary obligations, this Agreement and Your obligations hereunder shall not be affected or impaired because Company is unable to fulfill any of its obligations hereunder or is delayed in doing so, if such inability or delay is caused by reason of Force Majeure Event and Company's obligations under this Agreement shall be suspended by any such Force Majeure Event. "Force Majeure Event" is defined as any cause beyond Company's reasonable control or anticipation, including, without limitation, acts of war, acts of God, terrorism, earthquake, hurricanes, flood, fire or other casualty, embargo, riot, sabotage, labor shortage or dispute, governmental act, insurrections, epidemics, quarantines, inability to procure materials or transportation facilities, failure of power, restrictive governmental laws or regulations, condemnation, acts of third parties, failure of the Internet or other reason that is beyond Company's reasonable control.

12.7 Survival. Sections 8, 9, 11 and this Section 12 of this Agreement shall survive termination.

12.8 Entire Agreement; Third Party Beneficiaries. This Agreement constitutes the entire agreement for provision of the Services to You and supersedes all other prior agreements and understandings, both written and oral, between You and Company with respect to the Services. You understand and agree that Company and You intend to include, as the sole third party beneficiaries of this Agreement, Company's vendors and licensors, with all rights and remedies available as if such vendors and licensors were a party to this Agreement.

**APPENDIX A. MICROSOFT SOFTWARE USE – TERMS AND CONDITIONS**

This document concerns your use of Microsoft software, which includes computer software provided to you by Company as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually or collectively “SOFTWARE PRODUCTS”). Company does not own the SOFTWARE PRODUCTS and the use thereof is subject to certain rights and limitations of which Company needs to inform you. Your right to use the SOFTWARE PRODUCTS is subject to your agreement with Company, and to your understanding of, compliance with and consent to the following terms and conditions, which Company does not have authority to vary, alter or amend.

**1. DEFINITIONS.**

For purposes of this Appendix, the following definitions shall apply:

“**Client Software**” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

“**Device**” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone”, or other electronic device.

“**Server Software**” means software that provides services or functionality on a computer acting as a server.

“**Redistribution Software**” means software described in Paragraph 4 (“Use of Redistribution Software”) below.

- 2. **OWNERSHIP OF SOFTWARE PRODUCTS.** The SOFTWARE PRODUCTS are licensed to Company from an affiliate of the Microsoft Corporation (“Microsoft”). All title and intellectual property rights in and to the SOFTWARE PRODUCTS (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text, and “applets” incorporated into the SOFTWARE PRODUCTS) are owned by Microsoft or its suppliers. The SOFTWARE PRODUCTS are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the SOFTWARE PRODUCTS does not transfer any ownership of SOFTWARE PRODUCTS or any intellectual property rights to you.
- 3. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices by Company only in accordance with the instructions, and only in connection with the services, provided by you by Company.
- 4. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to you by Company, you may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO COMPANY, WHICH TERMS MUST BE PROVIDED TO YOU BY COMPANY.** Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Company.
- 5. **COPIES.** You may not make any copies of the SOFTWARE PRODUCTS; provided, however, that you may (a) make one (1) copy of Client Software on your Device as expressly authorized by Company; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Company, upon notice from Company or upon transfer of your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the SOFTWARE PRODUCTS.

- 6. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCTS, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.
- 7. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute SOFTWARE PRODUCTS to any third party, and you may not permit any third party to have access to and/or use the functionality of the SOFTWARE PRODUCTS.
- 8. **TERMINATION.** Without prejudice to any other rights, Company may terminate your rights to use the SOFTWARE PRODUCTS if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the SOFTWARE PRODUCTS, and destroy all copies of the SOFTWARE PRODUCTS and all of its component parts.
- 9. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY COMPANY AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.
- 10. **PRODUCT SUPPORT.** Any product support for the SOFTWARE PRODUCTS is provided to you by Company and is not provided by Microsoft or its affiliates or subsidiaries.
- 11. **NOT FAULT TOLERANT.** THE SOFTWARE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.
- 12. **EXPORT RESTRICTIONS.** The SOFTWARE PRODUCTS are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the SOFTWARE PRODUCTS, including U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issue by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.
- 13. **LIABILITY FOR BREACH.** In addition to any liability you may have to Company, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

**APPENDIX B. RESEARCH IN MOTION USE –TERMS AND CONDITIONS**

This Appendix is required as a result of Your use of Research in Motion (“RIM”) software, hardware and services as well as any printed or electronic documentation or associated media (“the RIM Products”) provided by Company and is in addition to the terms and conditions of the Master Services Agreement. Company does not own the RIM Products and the use thereof is subject to certain rights and limitations of which Company needs to inform You. Your right to use the RIM Products is subject to Your agreement with Company, and to Your understanding of, compliance with and consent to the following terms and conditions.

1. **DEFINITIONS.** Capitalized terms used herein but not otherwise defined shall have their respective meanings set forth in the Master Services Agreement. For purposes of this Appendix, the following definition shall apply:
 

“**End User**” solely for the purpose of this Appendix shall mean You and any related party for whom Company operates a messaging platform and who is authorized directly or indirectly by Company to access the RIM Products, or otherwise to whom the functionality of the RIM Products is made available by Company, directly or indirectly. “**End Users**” shall include Your employees or independent contractors who access the RIM Products, or otherwise to whom the functionality of the RIM Products is made available by Company.

“**End User Data**” means any information or data of any kind that personally identifies (or that can be used, together with other information or data, to personally identify) an End User.
2. **Use.** Each End User is prohibited from using the RIM Products for any purpose other than the internal business or personal purposes of the End User. You shall be responsible for each End User’s compliance with this Appendix.
3. **Exclusion of Liability.** IN NO EVENT SHALL RIM AND RIM’S AGENTS BE LIABLE TO ANY END USER FOR, ANY INDIRECT, ECONOMIC, SPECIAL, PUNITIVE, COMMERCIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS REVENUE OR EARNINGS, LOST DATA, DAMAGES CAUSED BY DELAYS, OR A FAILURE TO REALIZE EXPECTED SAVINGS) DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THIS APPENDIX OR THE END USER’S USE OF THE RIM PRODUCTS, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD WAS DISCLOSED TO THE PARTIES.
4. **Application of Limitations, Exclusions and Disclaimers.** The limitations, exclusions and disclaimers set out in the Master Services Agreement and this Appendix shall apply: (a) whether an action, claim or demand arises from a breach of warranty or condition, breach of contract, tort (including negligence), strict liability or any other kind of civil or statutory liability connected with or arising out of the Master Services Agreement, this Appendix or the RIM Products; and (b) to RIM and to RIM’s affiliated companies as well as to RIM to RIM’s affiliated companies’ director, officers, employees, and independent contractors. Some jurisdictions do not allow limitation or exclusions of certain types of damages and/or of implied conditions or warranties.
5. **Termination for Breach.** In the event that the End User breaches the Master Services Agreement, including without limitation, any provision of this Appendix, Company shall have the right, in its sole discretion, to immediately terminate the Master Services Agreement with the End User for cause or to terminate the portion of the Services to which such breach pertains.
6. **Transition Period upon Termination.** Upon termination of Company’s Master Alliance Agreement with RIM and any subsequent transition period, this Appendix shall terminate.
7. **Liability.** As a condition of Company’s ability to provide access to the RIM Products to End Users, End User shall be liable to Company for any and all damages caused as a result of any breach of the Agreement by such End User without limitation or exception.
8. **End User Data.** The End User hereby consents to Company providing End User Data to RIM solely for the purpose of facilitating the transition of End Users to an alternative solution in the event of a termination of the Company’s Master Alliance Agreement with RIM.
9. **No Trojan Horses.** End User shall not distribute in any way, any viruses, contaminating or destructive features, “backdoors”, “time bombs”, “Trojan horses”, “sniffer” routines, “worms”, bots, “drop dead devices”, harmful software code, file, program or programming routine or other contaminating or destructive features or other computer software routines or hardware components designed to: (i) permit unauthorized access to, or use of, the RIM Products or computer systems on which the RIM Products are loaded, or to which RIM Products are linked; (ii) disable, damage or erase the RIM Products; or (iii) perform any other similar actions that would preclude full use of the RIM Products by RIM, its channel partners, its authorized sub-licensees, or their end users.
10. **Representations and Warranties.** In addition to any similar representations and warranties in any applicable RIM agreement, End User represents and warrants that it will not (a) incorporate any data, content, files or materials in any medium distributed by End User, or in conjunction with the End User products or services, that: (i) includes content, material, graphics, sounds, video, screens, code or information that is unlawful or fraudulent, or violates or infringes any patent, copyright, trademark, trade secret or any other intellectual property of others; (ii) includes any inappropriate language or material that is unlawful, libelous, slanderous, defamatory or invasive of another person’s right of privacy or right of publicity or personality, or that RIM may reasonably deem harmful, vulgar, obscene, derogatory, pornographic, abusive, harassing, threatening, hateful, objectionable with respect to race religion, sexual orientation, age group, national origin or gender, injurious to the reputation or business goodwill of RIM or the BlackBerry brand or otherwise unfit for publication; or (b) publish, transmit, distribute or upload any unauthorized or unsolicited bulk email solicitations, chain letters, advertisements, marketing or promotional materials, “junk mail”, “spam”, pyramid schemes or any other solicitations or communications, including without limitation spamming the RIM Products or other mobile phones or computers, or uses or collects RIM Product user email addresses or phone numbers, or other user information for any purpose other than the legitimate internal purposes of End User, or uses the RIM Products to perform any data collection, extraction or mining or gain or attempt to gain unauthorized access to the wireless device memory and software programs or applications.
11. **Restrictions on Use.** End User shall not use the RIM Products to commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious act.
12. **Cooperation.** End User shall cooperate with Company and/or its licensors and provide information and copies of records requested by Company and/or its licensors to assist Company in investigating or determining whether there has been a breach of any and all agreements by and between End User and Company and/or its licensors.