

RESEARCH IN MOTION USE –TERMS AND CONDITIONS

These Research in Motion Use Terms and Conditions (“**RIM Terms**”) apply to Your use of Research in Motion Limited (“RIM”) software, hardware and services as well as any printed or electronic documentation or associated media (the “RIM Products”).

1. **DEFINITIONS.** For purposes of these RIM Terms, the following definition will apply:

“**BBSLA**” means the BlackBerry Software License Agreement that relates to a copy of BlackBerry Server Software, a RIM Product.

“**End User**” solely for the purpose of this Appendix will mean any of Your employees, consultants or independent contractors to whom You grant permission to access the Hosted BES Software.

“**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 will be responsible for each End User’s compliance with this Appendix.
3. **BBSLA.** You agree to RIM’s current BBSLA (<http://na.blackberry.com/eng/legal/bbsla.jsp>), which is incorporated by reference herein, with respect to Your and End Users’ access to the RIM Products. You acknowledge and agree that to the extent that You or Your End Users access the Hosted BES Software, the Hosted BES Software is part of the Customer’s BlackBerry Solution, defined as “Your BlackBerry Solution” under the BBSLA.
4. **Exclusion of Liability.** IN NO EVENT WILL SMARSH, 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 THESE RIM TERMS 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.
5. **Application of Limitations, Exclusions and Disclaimers.** The limitations, exclusions and disclaimers set out in the Your agreement with Smarsh and these RIM Terms will 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 Your agreement with Smarsh, The RIM Terms or the RIM Products; and (b) to RIM and to RIM’s affiliated companies as well as to RIM and to RIM’s affiliated companies’ directors, 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. **NOTWITHSTANDING ANYTHING IN THE MASTER SERVICE AGREEMENT OR THIS APPENDIX, THE LIABILITY OF SMARSH AND ITS LICENSORS TO YOU WILL BE LIMITED AND EXCLUDED AT LEAST TO THE SAME EXTENT AS THE LIMITATIONS AND EXCLUSIONS OF LIABILITY PROVISIONS CONTAINED IN THE BBSLA.**

6. **Termination for Breach.** If You or any End User breaches Your agreement with Smarsh, including without limitation, any provision of these RIM Terms, Smarsh will have the right, in its sole discretion, to immediately terminate the Your agreement or to terminate the portion of the Services to which such breach pertains.
7. **Automatic Termination.** Upon termination of the applicable master agreement with RIM and any portion of the applicable license terms (including the BBSLA), this Appendix will automatically terminate.
8. **Liability.** End User will be liable for all damages caused because of any breach of the Agreement by such End User without limitation or exception.
9. **End User Data.** You hereby consent, and consent on behalf of Your End Users, to the provision of End User Data to RIM solely for providing Services to You.