



## BlackBerry Internet Service End User Agreement

THE BLACKBERRY INTERNET SERVICE END USER AGREEMENT IS SET OUT BELOW. IF YOU ARE UNABLE TO READ THE ENTIRE AGREEMENT ON YOUR BLACKBERRY WIRELESS HANDHELD DEVICE FOR ANY REASON, IT IS AVAILABLE AT [HTTP://WWW.BLACKBERRY.COM/GO/LEGALEULA](http://www.blackberry.com/go/legaleula)

PLEASE ENSURE THAT YOU HAVE READ THE ENTIRE AGREEMENT CAREFULLY BEFORE ACCEPTING IT BY CLICKING "YES" WHERE PROVIDED BELOW.

BY CLICKING ON "I AGREE" BELOW, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THE *BLACKBERRY INTERNET SERVICE* END USER AGREEMENT AND THE BLACKBERRY END USER SOFTWARE LICENSE AGREEMENT AND YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO ABIDE BY AND COMPLY WITH ALL TERMS, CONDITIONS AND NOTICES CONTAINED IN OR REFERENCED BY THESE AGREEMENTS, AND THAT YOU HAVE THE AUTHORITY TO DO SO. IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THESE AGREEMENTS, CLICK ON "I DISAGREE" BELOW.

IF, YOU ARE A CONSUMER, THEN CERTAIN PROVISIONS IN THIS AGREEMENT DO NOT APPLY TO YOU. THIS AGREEMENT DOES NOT AFFECT YOUR STATUTORY RIGHTS THAT MAY NOT BE MODIFIED BY CONTRACT, TO THE EXTENT SUCH MODIFICATION IS SPECIFICALLY PROHIBITED BY APPLICABLE LAW.

### 1. Information about RIM and the *BlackBerry Internet Services* or any related product or service ("BIS")

#### **Name and address of service provider:**

Research In Motion Limited ("RIM")  
295 Phillip Street, Waterloo, Ontario, Canada, N2L 3W8

#### **Contact:**

[legalinfo@rim.com](mailto:legalinfo@rim.com)

#### **Service description:**

BIS and BlackBerry Mail enable You to:

- Create an Internet email account which can be used as a standalone email address with certain BlackBerry wireless Handheld functionality;

BIS also enables You to:

- Have access to certain BlackBerry wireless Handheld functionality for certain existing ISP or other email accounts permitting third party email aggregation;
- Have access to internet web sites through the BlackBerry Internet Browsing Service from certain BlackBerry wireless Handhelds

If you have subscribed to RIM's BlackBerry Mail, then the following additional provisions of this Section 1 apply:

- All references in this Agreement (except in this **Service description** section above) to "BIS" or "BlackBerry Internet Service" shall be read as references to BlackBerry Mail;

- BlackBerry Mail does not provide access to Third Party Services and RIM's Internet Connection Service (ICS) and therefore the provisions of this Agreement which refer to Third Party Services and ICS do not apply to You if You are a BlackBerry Mail subscriber.

**Price of BIS, including all delivery costs and taxes:**

No payment is made directly to RIM; all payments for BIS are made to Your wireless service provider

**After sales warranties or guarantees:**

BIS is provided on an "AS IS" basis and **without any warranty of any kind**

**Right to cancel:**

You may discontinue receiving BIS at any time.

**Duration of the Agreement in the case of contracts for services:**

This Agreement has no specific term. RIM will provide not less than 30 days notice before terminating the BIS offering, except in certain circumstances set forth in this Agreement when RIM may terminate on less than 30 days notice.

**After sales service or support:**

RIM does not provide any direct after sales service or support. Contact Your wireless service provider about after sales service and support.

**2. Acceptance of Terms**

This BlackBerry Internet Service End User Agreement (the "Agreement") is a legal agreement between You and RIM (together the "Parties" and individually a "Party"). BY CLICKING ON "I AGREE" BELOW, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THE *BLACKBERRY INTERNET SERVICE* END USER AGREEMENT AND THE BLACKBERRY END USER SOFTWARE LICENSE AGREEMENT AND YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO ABIDE BY AND COMPLY WITH ALL TERMS, CONDITIONS AND NOTICES CONTAINED IN OR REFERENCED BY THESE AGREEMENTS, AND THAT YOU HAVE THE AUTHORITY TO DO SO. IF YOU DO NOT AGREE TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THESE AGREEMENTS, CLICK ON "I DISAGREE" BELOW. If You do not agree to be bound by the terms of this Agreement (including those documents referenced herein), no agreement will exist between You and RIM and RIM shall have no obligation to supply the BIS or any related product or service to You. If You have any questions or concerns about the terms of this Agreement, please contact RIM at [www.blackberry.com](http://www.blackberry.com). Upon providing You with reasonable notice, including by posting a new version on the web pages associated with the BIS, RIM reserves the right to make changes to this Agreement and recommends You review the terms accessible via the site on a regular basis. You further agree that Your continued use of the BIS constitutes Your acceptance of the terms of this Agreement, as revised.

You consent to use an electronic agreement to govern Your use of the BIS. You expressly consent to receiving all notices hereunder in electronic form, provided however this consent may be withdrawn at any time by contacting RIM at the address set forth above (though, in some situations, RIM may have no other means of providing notices to You, so termination of Your account may result from a request from You not to receive notices in electronic form).

The parties expressly agree that all performance under this Agreement and the resolution of disputes shall be conducted in the English language. If a translation of this Agreement into any other language is required by law, the English version will prevail to the extent that there is any conflict or discrepancy in meaning between the English version and any translation thereof. If this Agreement is provided to You in a language other than English, RIM does so solely as a convenience for You. If You are located in Canada, it is the express wish of the parties that this Agreement and/or any related documents be drawn up in a language other than French. Si vous êtes situé au Canada, il est de la volonté expresse des parties que le présent contrat et/ou tous les documents qui s'y rattachent soient rédigés dans une langue autre que le français.

**3. Consent to Collection of Information and Privacy**

**BY SUBMITTING PERSONAL INFORMATION TO RIM PURSUANT TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION YOUR NAME, ADDRESS AND TELEPHONE NUMBER, YOU CONSENT TO THE COLLECTION, PROCESSING, TRANSMISSION, USE, RETENTION AND DISCLOSURE OF SUCH INFORMATION BY RIM AND ITS AFFILIATED COMPANIES IN CANADA AND/OR THE UNITED STATES FOR ANY PURPOSES SET OUT IN RIM'S PRIVACY POLICY. IF THIS LINK IS BROKEN, THE PRIVACY POLICY IS ALSO PROVIDED ON THE BIS WEBSITE. IN ADDITION, IF YOU USE THE BIS TO ACCESS AND SEND E-MAIL FROM THIRD PARTY SERVICE PROVIDERS SUCH AS AMERICA ONLINE OR YAHOO!, ("THIRD PARTY SERVICES"), YOU AUTHORIZE RIM TO USE AND STORE YOUR PERSONAL INFORMATION RELATING TO THE THIRD PARTY SERVICES FOR SO LONG AS RIM DEEMS NECESSARY (BUT NOT LONGER THAN AS PERMITTED BY APPLICABLE LAW), INCLUDING USER NAME, PASSWORD AND E-MAILS, FOR THE LIMITED PURPOSE OF PROVIDING E-MAIL FROM THE THIRD PARTY SERVICE PROVIDER TO YOU ON THE BIS SERVICE.** Information retained by RIM about You may be reviewed, corrected or edited by You by contacting RIM at the location specified herein (though, in some situations, deleting certain information may not be technically feasible and termination of Your account may result from a request from You to delete such information).

#### **4. Term and Other Agreements**

This Agreement shall begin upon delivery of the BIS to You, and shall end upon: (a) expiry or termination of Your agreement(s) with RIM or the third party service provider(s) providing services to You which support the BIS, as applicable, (b) expiry or termination of Your BlackBerry End-User/Software License Agreement with RIM, or (c) upon termination of this Agreement in accordance with the provisions set out herein, whichever first occurs.

RIM reserves the right to discontinue or modify the BIS at any time upon reasonable notice to You. As the BIS is provided to You without direct payment to RIM, You expressly agree that RIM's ability to discontinue or modify the BIS at any time is reasonable. AS A PRECONDITION FOR YOUR USE OF THE BIS, YOU MUST BE A PARTY IN GOOD STANDING TO A CURRENT, VALID BLACKBERRY END-USER/SOFTWARE LICENSE AGREEMENT WITH RIM, AND MUST ALSO BE A PARTY IN GOOD STANDING TO A CURRENT, VALID AGREEMENT WITH RIM OR A THIRD PARTY SERVICE PROVIDER REGARDING SERVICES SUPPORTED BY THE BIS, AS APPLICABLE. IF YOU ARE NOT A PARTY IN GOOD STANDING TO BOTH A CURRENT, VALID BLACKBERRY END-USER/SOFTWARE LICENSE AGREEMENT WITH RIM, AND A CURRENT, VALID AGREEMENT WITH RIM OR A THIRD PARTY SERVICE PROVIDER REGARDING SERVICES SUPPORTED BY THE BIS, AS APPLICABLE, THE BIS MAY BECOME INACCESSIBLE AT ANY TIME WITHOUT NOTICE.

Except to the extent specifically prohibited by applicable law in Your jurisdiction, You agree to be governed by any additional terms and conditions that may apply to You arising out of Your accessing, browsing and/or using of this BIS site, whether contained on this BIS site or in a separate agreement with RIM. In the event of any conflict between this Agreement and such additional terms and conditions, this Agreement shall govern to the extent of the conflict. Additionally, You agree to comply with the terms and conditions of the BlackBerry End-User/Software License Agreement between You and RIM relating to Your use of the RIM software on Your wireless handheld and any other RIM software provided to You, as well as the terms and conditions of any other agreement between You and RIM, and between You and Your wireless service provider, and nothing herein shall release You from any obligations contained in such agreements. YOU ACKNOWLEDGE AND AGREE THAT RIM ONLY PROVIDES THE BIS AND DOES NOT HAVE CONTROL OVER THE INTERNET SERVICES AS WELL AS THE WIRELESS SERVICES ACTIVITIES OF THE WIRELESS SERVICE PROVIDER, WHICH ARE THE SOLE RESPONSIBILITY OF SUCH WIRELESS SERVICE PROVIDER.

#### **5. Third Party Services, Information and Links**

The BIS may access Third Party Services, and the BlackBerry Internet Service Site may also contain links to third party Web sites ("Linked Sites"), and may incorporate information obtained from third parties ("Third Party Information"). Additionally, the BIS may include RIM's Internet Connection Service ("ICS"), which allows You to browse Web content from Your wireless handheld, and may provide access to Third Party Services, Linked Sites, Third Party Information and other unrelated Web sites ("Other Sites"). Nothing herein authorizes the use of or access to Third Party Services, Linked Sites, Third Party Information or other Sites and RIM does not in any way warrant that the BIS will allow access to such Third Party Services, Linked Sites, Third Party Information and Other Sites. THE THIRD PARTY SERVICES, LINKED SITES, OTHER SITES AND THIRD PARTY INFORMATION ARE NOT UNDER THE CONTROL OF RIM, AND RIM IS NOT RESPONSIBLE FOR the contents, usage or performance of any Third Party Services, Linked Site, Other Site or Third Party Information, including without limitation the accuracy, copyright compliance, legality, decency, links or any other aspect of the Third Party Services, Linked Site, Other Site or Third Party Information. RIM is not responsible for any form of transmission received from or through any Third Party Service, Linked Site or Other Site nor is RIM responsible if the Third Party Service, Linked Site or Other Site is not working appropriately or as expected by You. RIM provides such links and information to You only as a convenience, and the inclusion of any link or Third Party Information does not imply endorsement by RIM of the site or any association with its operators. You are responsible for viewing and abiding by the privacy statements and terms of use posted at the Linked Sites and Other Sites, and for complying with any agreements with third parties that You may have in relation to the Third Party Services.

All Third Party Services offered for use with the BIS are provided to You through Your third party service provider(s) and shall be subject to Your agreement with such third party service provider(s). EXCEPT TO THE EXTENT SPECIFICALLY PROHIBITED BY APPLICABLE LAW IN YOUR JURISDICTION, RIM SHALL HAVE NO LIABILITY WHATSOEVER TO YOU OR ANY THIRD PARTY CLAIMING BY OR THROUGH YOU, FOR ANY ISSUE RELATING TO THE THIRD PARTY SERVICES, LINKED SITES, OTHER SITES OR THIRD PARTY INFORMATION, INCLUDING WITHOUT LIMITATION, THE ACCURACY, TIMELINESS OR CONTINUED AVAILABILITY OF SUCH THIRD PARTY SERVICES OR THE CONTINUED INTEROPERABILITY OF THE THIRD PARTY SERVICES WITH THE BIS.

Any dealings with third parties conducted through the BIS, the Third Party Services, Linked Sites or Other Sites, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between You and the third party. RIM shall not be responsible or liable for any part of any such dealings.

## **6. Your Use Obligations**

**IN CONSIDERATION OF YOUR USE OF THE BIS, YOU AGREE TO: (A) PROVIDE TRUE, ACCURATE, CURRENT AND COMPLETE INFORMATION ABOUT YOURSELF WHERE REQUIRED BY RIM, INCLUDING WITHOUT LIMITATION, YOUR ACCOUNT AND BILLING INFORMATION (SUCH INFORMATION BEING THE "PERSONAL DATA") AND (B) MAINTAIN AND PROMPTLY UPDATE THE PERSONAL DATA TO KEEP IT TRUE, ACCURATE, CURRENT AND COMPLETE. IF YOU PROVIDE ANY INFORMATION THAT IS UNTRUE, INACCURATE, NOT CURRENT OR INCOMPLETE, OR RIM HAS REASONABLE GROUNDS TO SUSPECT THAT SUCH INFORMATION IS UNTRUE, INACCURATE, NOT CURRENT OR INCOMPLETE, RIM HAS THE RIGHT TO SUSPEND OR TERMINATE THE BIS AND REFUSE ANY AND ALL CURRENT OR FUTURE USE OF RIM SERVICES (OR ANY PORTION THEREOF). YOU ACKNOWLEDGE THAT RIM'S ABILITY TO PROVIDE THE BIS DEPENDS UPON YOUR PROVISION OF THE PERSONAL DATA TO RIM, AND THAT YOUR FAILURE TO PROVIDE TRUE, ACCURATE, CURRENT AND COMPLETE PERSONAL DATA TO RIM MAY RESULT IN DELAYS OR NON-PERFORMANCE OF THE BIS FOR WHICH RIM IS NOT RESPONSIBLE.**

You are responsible for all activities undertaken by You using the BIS, including, without limitation, use of email. All such activities are at Your own risk. You shall not use, nor permit others to use, the BIS or any RIM services provided to You in a manner or for a purpose contrary to this Agreement. In the event that You access other networks or computing resources, You agree to abide by their respective usage policies. You are responsible for all activities that occur under Your password or account, and will keep Your password(s) confidential. You will immediately notify RIM of any unauthorized use of Your password or account or any other breach of security. You will not disrupt the functioning of the site, solicit another user's password, or otherwise act in a way that interferes with other users' use of the site. You shall not in any way distribute any computer program that damages, detrimentally interferes with, surreptitiously intercepts, or expropriates any system, data, or personal information.

The BIS is not intended for use by children. You expressly acknowledge that You are at least 18 years of age, or the age of majority in Your jurisdiction, whichever is greater. In the event that You, as a legal guardian, wish to allow Your child to use the BIS, You acknowledge that Your child will have permission to access the BIS, including without limitation email and Web browsing capabilities through ICS, if applicable, but that You will otherwise remain responsible for Your child's use of and access to the BIS. You further acknowledge that, as the legal guardian, it is Your responsibility to determine whether use of the BIS and/or content transmitted through the BIS is appropriate for Your child.

You are solely responsible for the selection, implementation, and performance of any and all third-party equipment, software and telecommunication equipment and services (including, without limitation, Internet email connectivity and wireless services used in connection with the BIS). You are responsible for ensuring that the email system and computer with which You choose to operate the BIS meets RIM's minimum standards for interoperability including, without limitation, processing speed, memory requirements, the choice of email server and client software and the use of dedicated Internet access for accessing Internet email.

You agree that if You transfer Your interest in the BIS without such transferee having first obtained RIM's written permission for such transfer and without such transferee agreeing to assume all of Your obligations under this Agreement (as may be amended from time to time), You shall remain liable under this Agreement.

## **7. Prohibited Uses**

You agree that You will not use the BIS in any manner which could damage, disable, overburden, or impair this site and/or any RIM services (or the network(s) connected to such site or services) or interfere with any other party's use and enjoyment of the BIS and/or other RIM services. You will not attempt to gain unauthorized access to the BIS and/or any RIM service, other accounts, computer systems or networks connected to or accessed through the BIS, through hacking, password mining or any other means. You will not obtain or attempt to obtain any materials or information through any means not intentionally made available to You through the BIS.

The BIS includes e-mail services and/or other message or communication facilities designed to enable You to communicate with others (collectively, "Communication Services"). You agree to use the Communication Services only to post, send and receive messages and material that are proper and, when applicable, related to the particular Communication Service. By way of example, and not as a limitation, You agree that when using a Communication Service, You will not:

- Use the Communication Service in connection with surveys, contests, pyramid schemes, chain letters, junk email, spamming or any duplicative or unsolicited messages (commercial or otherwise).
- Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- Publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful topic, name, material or information.
- Upload, post, email, transmit or otherwise make available any material that You do not have a right to make available under any law or under contractual or fiduciary relationships (such as software protected by intellectual property laws, inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements).
- Upload, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, including without limitation, Trojan horses, worms, time bombs, cancelbots or corrupted files.
- Post, publish, modify, transmit, reproduce, or distribute in any way, information, software or other materials or tools designed for compromising the security of the Communication Services, RIM's network or telecommunication services.
- Advertise or offer to sell or buy any goods or services for any business purpose, unless the rules and policies of such Communication Service specifically allows such messages.
- Download any file posted by another user of a Communication Service that You know, or reasonably should know, cannot be legally distributed in such manner.
- Falsify or delete any email headers, author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of email, software or other material in order to disguise the origin of such email, software or material.
- Restrict or inhibit any other user from using and enjoying the Communication Services, or create an unusually large burden on the Communication Services, such as by generating levels of traffic sufficient to impede others' ability to send or retrieve information.
- Violate any code of conduct or other guidelines which may be applicable for any particular Communication Service.
- Harvest or otherwise collect information about others, including e-mail addresses, without prior written authorization from such owners of such information.
- Resell any of the Communication Services or use the Communication Services other than for Your own personal purposes. Without limiting the foregoing, You agree that You will not use the Communication Services to provide Internet access or any other feature of the Communication Services to any third party.
- Violate any applicable laws or regulations.
- Impersonate any person or entity, or falsely state or otherwise misrepresent Your affiliation with a person or entity, or create a false identity to mislead others.
- Commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious acts.

Except to the extent specifically prohibited by applicable law in Your jurisdiction, You will pay RIM and/or its affiliates, all reasonable and foreseeable costs and legal liabilities which they incur as a result of Your breaking any of the restrictions in the list of bullet points above or Your other obligations in this Section.

RIM reserves the right but is not obliged to review materials posted to or sent through a Communication Service and may remove any materials in its sole discretion.

RIM reserves the right at all times to disclose any information including personal data about You, as RIM deems necessary to satisfy any applicable law, regulation, legal process or police, security service, regulator or governmental request.

Always use caution when giving out any personally identifying information about Yourself or Your children in any Communication Service. RIM does not control or endorse the content, messages or information found in any Communication Service and, therefore, RIM specifically disclaims any liability with regard to the Communication Services and any actions resulting from Your participation in any Communication Service.

Materials posted to or sent through a Communication Service may be subject to limitations on size, usage, reproduction, dissemination or other requirements by RIM or by third parties, including without limitation the third party service provider providing You with Third Party Services. You acknowledge that such limitations may apply to Your use of the BIS and/or the Third Party Services, and You are responsible for adhering to such limitations if You post or send such materials.

## **8. International Use**

As the BIS may be accessed globally, if You choose to access this site from locations other than the United States, Canada or an EU Member State, You do so on Your own initiative and You are responsible for compliance with all applicable local use controls, laws and regulations, including those relating to the transmission of technical data exported from or imported to Canada or the country in which You reside. Notwithstanding the foregoing, RIM makes no representation that the BIS is appropriate or available for use in locations outside the United States, Canada or an EU Member State, as applicable. Use of the BIS to access data or content that are illegal to access under the laws of the territory from which the BIS is being accessed is prohibited under this Agreement.

## **9. Use of Email Services**

You agree that RIM may establish limits, including by providing a notice on the BIS website, concerning use of any services (including Communication Services and email services) offered on this BIS site, including without limitation, the maximum number of days that e-mail messages will be retained by the BIS, the maximum number of e-mail messages that may be sent from or received by an account on the BIS, the maximum size of an e-mail message that may be sent from or received by an account on the BIS, the maximum disk space that will be allotted on RIM's servers on Your behalf, and the maximum number of times and duration You may access the BIS in a given period of time. RIM reserves the right to change the foregoing limitations upon reasonable notice to You. RIM will use reasonable efforts to notify You within 30 days, when technically feasible, otherwise RIM will notify You as soon as is reasonably possible.

Except to the extent specifically prohibited by applicable law in Your jurisdiction, You agree that RIM has no responsibility or liability for the deletion, corruption or failure to store any messages or other content maintained or transmitted by the BIS. You acknowledge that RIM reserves the right to delete without notice to You, accounts that are inactive for an extended period of time. RIM recommends that You make regular (at least daily back-ups) of all emails and other content that is important to You relating to the BIS, as data can easily be lost.

RIM will use reasonable care and skill in providing the Communications Services but cannot and does not guarantee that the Communications Services will be continuous, uninterrupted, timely, secure or error-free. For example, RIM needs to periodically fix software bugs, install updates and do general diagnosis and maintenance of the BIS, which will limit RIM's ability to provide the Communication Services. RIM also needs to be able to do emergency maintenance and/or suspend access to the BIS and its servers.

In addition to the terms and conditions set out herein, You agree that You: (a) will not continue to send commercial email to a recipient if recipient has requested that You discontinue such communication; (b) will not forward or propagate chain letters of any type (including charity requests or petitions for signatures), whether or not the recipient wishes to receive such mailings; (c) will not intentionally flood a user, server, account or site with large or numerous email messages; and (d) will not forge header information.

RIM prohibits the use of accounts or network connections to collect replies of messages sent from any another provider that violates these terms and conditions of use or those of the originating provider.

Except to the extent specifically prohibited by applicable law in Your jurisdiction, You will pay RIM and/or its affiliates, all reasonable and foreseeable costs which they incur as a result of Your breaching any of Your obligations in this Section.

## **10. Disclaimer of Warranties**

**THE LAW OF SOME COUNTRIES MAY NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES IN CONTRACTS WITH CONSUMERS OR END-USERS, AND, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, THE EXCLUSIONS SET OUT IN THIS CLAUSE MAY NOT APPLY TO YOU.**

EXCEPT TO THE EXTENT SPECIFICALLY PROHIBITED BY APPLICABLE LAW IN YOUR JURISDICTION, THE BIS IS PROVIDED "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" AND AT YOUR SOLE RISK, WITHOUT WARRANTY OF ANY KIND BY RIM. RIM DOES NOT WARRANT UNINTERRUPTED USE OR OPERATION OF THE BIS, OR THAT ANY DATA SENT BY OR TO YOU WILL BE TRANSMITTED IN UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME. EXCEPT AS EXPRESSLY PROVIDED HEREIN ALL REPRESENTATIONS, WARRANTIES, CONDITIONS, ENDORSEMENTS AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF TITLE OR NON-INFRINGEMENT AND ANY IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE, MERCHANTABILITY, DURABILITY, PERFORMANCE OR NON-PERFORMANCE OF SOFTWARE, PERFORMANCE OF SERVICES AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE HEREBY EXCLUDED. RIM SHALL HAVE NO LIABILITY TO YOU OF ANY KIND WITH RESPECT TO ANY SERVICE PROVIDED BY ANY THIRD PARTY THROUGH RIM OR IN CONJUNCTION WITH RIM'S SERVICES, INCLUDING WITHOUT

LIMITATION THE THIRD PARTY SERVICES. YOUR RECOURSE IN THE EVENT OF ANY SUCH CLAIM WITH RESPECT TO ANY SERVICE SHALL BE SOLELY AGAINST SUCH THIRD PARTY SUBJECT TO THEIR TERMS AND CONDITIONS.

## 11. Limitation of Liability

**THE LAW OF SOME COUNTRIES MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY IN CONTRACTS WITH CONSUMERS OR END-USERS, AND, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, THE EXCLUSIONS OR LIMITATIONS SET OUT IN THIS CLAUSE MAY NOT APPLY TO YOU.**

EXCEPT TO THE EXTENT SPECIFICALLY PROHIBITED BY APPLICABLE LAW IN YOUR JURISDICTION, YOU SPECIFICALLY AGREE THAT RIM SHALL NOT BE RESPONSIBLE FOR UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, ANY MATERIAL OR DATA SENT OR RECEIVED OR NOT SENT OR RECEIVED, OR ANY TRANSACTIONS ENTERED INTO THROUGH THE BIS. EXCEPT TO THE EXTENT SPECIFICALLY PROHIBITED BY APPLICABLE LAW IN YOUR JURISDICTION, YOU SPECIFICALLY AGREE THAT RIM IS NOT RESPONSIBLE OR LIABLE FOR ANY THREATENING, DEFAMATORY, OBSCENE, OFFENSIVE OR ILLEGAL CONTENT OR CONDUCT OF ANY OTHER PARTY OR ANY INFRINGEMENT OF ANOTHER'S RIGHTS, INCLUDING INTELLECTUAL PROPERTY, INTANGIBLE AND INDUSTRIAL RIGHTS. YOU SPECIFICALLY AGREE THAT RIM IS NOT RESPONSIBLE FOR ANY CONTENT SENT USING THE COMMUNICATION SERVICES AND/OR BY ANY THIRD PARTY, INCLUDING WITHOUT LIMITATION VIRUSES. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET OUT IN THIS AGREEMENT 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 THIS AGREEMENT; AND (B) TO RIM AND ITS AFFILIATED COMPANIES, THEIR SUPPLIERS (INCLUDING ANY WIRELESS SERVICE PROVIDERS) AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND INDEPENDENT CONTRACTORS (COLLECTIVELY, THE "RIM PARTIES" AND INDIVIDUALLY, A "RIM PARTY").

YOU ACKNOWLEDGE AND ACCEPT THAT THE BIS IS PROVIDED TO YOU WITHOUT DIRECT PAYMENT TO RIM AND THAT ACCORDINGLY, to the maximum extent permitted by applicable law in Your jurisdiction, the only type of damages that You may recover against any RIM Party in relation to the provision, use, performance or non-performance of the BIS or any portion thereof, regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise, shall be Your direct damages, if any, and the aggregate liability of the RIM Parties shall not in any event exceed the amount paid by You or on Your behalf to RIM for the BIS for the period such failure, delay or nonperformance occurs.

The BIS is provided to You for individual, personal and private use. Except to the extent specifically prohibited by applicable law in Your jurisdiction, under no circumstances does RIM accept liability for any business loss including, without limitation, any loss of profits, loss of revenue, loss of business, loss of anticipated savings, or any loss of or corruption of data as a result of RIM's breach of this Agreement, its negligence or otherwise.

YOU ACKNOWLEDGE AND ACCEPT THAT THE BIS IS PROVIDED TO YOU WITHOUT DIRECT PAYMENT TO RIM AND THAT ACCORDINGLY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW IN YOUR JURISDICTION, YOU AGREE THAT IN NO EVENT SHALL RIM BE LIABLE TO YOU OR ANY PARTY CLAIMING THROUGH YOU FOR, AND YOU HEREBY WAIVE YOUR RIGHT TO CLAIM, ANY (I) LOST PROFITS, (II) LOSS OF BUSINESS OR REVENUES, (III) LOSS OF THE USE OF THE BIS, OR ANY ASSOCIATED PRODUCTS OR SERVICES, (IV) LOSS OF DATA, (V) COST OF CAPITAL, (VI) COST OF SUBSTITUTE GOODS, FACILITIES, SERVICES OR REPLACEMENT SERVICES, (VII) DOWNTIME COSTS OR THE CLAIMS OF ANY THIRD PARTIES FOR SUCH DAMAGES) OR (VIII) INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL OR PUNITIVE DAMAGES DIRECTLY OR INDIRECTLY RELATING TO OR ARISING OUT OF THIS AGREEMENT REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN. THE FOREGOING DISCLAIMER SHALL APPLY IN CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO, YOUR INABILITY TO USE THE BIS OR ANY PART THEREOF EITHER SEPARATELY OR IN COMBINATION WITH ANY OTHER COMMUNICATIONS BY RIM OR THROUGH RIM BY A THIRD PARTY SERVICE PROVIDER AND TO UNAUTHORISED ACCESS TO YOUR DATA TRANSMITTED VIA COMMUNICATION LINKS PROVIDED BY SUCH THIRD PARTY SERVICE PROVIDER AS PART OF THE SERVICE(S). IN NO EVENT SHALL RIM'S LIABILITY HEREUNDER EXCEED USD 10,000.

NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR LIMIT THE LIABILITY OF RIM FOR DEATH OR PERSONAL INJURY CAUSED DIRECTLY BY THE GROSS NEGLIGENCE, FRAUDULENT MISREPRESENTATION OR INTENTIONAL MISCONDUCT OF RIM, ITS EMPLOYEES OR AGENTS.

YOU ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS SET FORTH IN THIS SECTION CONSTITUTE AN ESSENTIAL ELEMENT OF THE AGREEMENT BETWEEN THE PARTIES AND THAT IN THE ABSENCE OF SUCH LIMITATION THE PROVISION OF THE BIS WITHOUT DIRECT PAYMENT TO RIM AND OTHER TERMS SET FORTH IN THIS AGREEMENT

WOULD BE SUBSTANTIALLY DIFFERENT AND COULD IMPACT RIM'S ABILITY TO OFFER THE BIS AND YOUR ABILITY TO USE THE BIS.

## **12. Indemnification**

You shall defend, indemnify, and hold harmless RIM from any claims, damages, losses, or expenses (including without limitation attorney fees and costs) incurred by RIM in connection with all claims, suits, judgements and causes of action: (i) for infringement of patents or other proprietary rights arising from Your combining with or using any device, system or service in connection with the BIS or any portion thereof, (ii) for damages arising from Your breach of any provision of this Agreement, (iii) for libel, slander, defamation or infringement of copyright or other proprietary right with respect to material transmitted by You using the BIS or (iv) for any injury, death or property damage arising from Your acts in connection with the presence, use or non-use of any portion of the BIS (other than such damage to person or property (excluding data) that directly arises from the use of the BIS strictly in accordance with the terms of this Agreement and the RIM instructions for use of the BIS). No remedy herein conferred upon RIM is intended to be, nor shall it be construed to be, exclusive of any other remedy provided herein or as allowed by law or in equity, but all such remedies shall be cumulative. In the event of the termination of this Agreement pursuant to Section 14, You shall pay to RIM all attorney fees, collection fees, and related expenses, expended or incurred by RIM in the enforcement of any right or privilege hereunder (including, but not limited to, telephone, freight, express and postal charges, expenses of paid investigators and reasonable compensation for time of RIM's representatives).

To the extent consumer laws applicable in Your jurisdiction result in an indemnity in the form above being unenforceable, then the following will apply instead: You will pay RIM and/or its affiliates, all reasonable and foreseeable costs and liabilities which they incur as a result of: (i) infringement of patents or other proprietary rights arising from Your combining with or using any device, system or service in connection with the BIS, or (ii) claims of libel, slander, defamation or infringement of copyright or other proprietary right with respect to material transmitted by You using the BIS.

The foregoing indemnity shall apply to RIM and its affiliated companies, their suppliers (including any wireless service provider) and their respective directors, officers, employees and independent contractors.

## **13. Intellectual Property Rights**

Neither You nor anyone acting on Your behalf, including Your employees, acquire any intellectual property or other proprietary rights, including intangible, industrial, patents, designs, trademarks, copyright, trade-secrets or moral rights, relating to the contents of this site, including without limitation, software and information, except as otherwise expressly specified in an appropriate license or other mutually agreed upon, written agreement that You may have with RIM. Any rights not expressly granted herein are reserved. Use of the BIS is only licensed to You as expressly set out herein, and the site allowing You access to the BIS is protected by Canadian, U.S. and international copyright and patent laws and international treaty provisions. You may not print, copy, reproduce, distribute, modify or in any other manner duplicate any software or other materials provided to You in conjunction with the BIS, in whole or in part. For the purposes of this provision "copy or reproduce" shall not include copying that naturally results from the operation of such software or in the course of making backups of the computer or system on which such software is installed, in accordance with industry standard business practices. You do not have the right to obtain or use any source code for any software provided to You in conjunction with the BIS, and except to the extent that RIM is expressly precluded by law from prohibiting these activities, You may not reverse engineer or disassemble any products or accessories provided to You in conjunction with the BIS, or translate, reverse engineer, decompile or disassemble, or otherwise attempt to derive the source code of any software provided to You in conjunction with the BIS. You agree that nothing in this Agreement shall affect any rights and recourse to any remedies that RIM may have under any applicable laws in Your jurisdiction relating to the protection of RIM's intellectual property or other proprietary rights, including industrial, intangible, patents, designs, trademarks, copyrights, trade secrets or moral rights.

## **14. Violation of this Agreement and Termination**

If the BIS is used in a way deemed by RIM to violate this Agreement, RIM or its agent may take any responsible actions they deem appropriate. Such action may include, but is not limited to, temporary or permanent removal of content, filtering of Internet transmissions and the immediate suspension or termination of all or any portion of the Communication Services (including email services). RIM shall not be liable in any way for any such responsive actions. The above-described actions are not RIM's exclusive remedies and RIM may take any other legal, equitable or technical action it deems appropriate.

RIM reserves the right to investigate suspected violations of this Agreement. You hereby authorize RIM to cooperate with (1) law enforcement authorities in the investigation of suspected criminal violations, (2) third parties in investigating acts in violation of this Agreement and (3) system administrators at Internet service providers, networks or computing facilities in order to enforce this Agreement. Such cooperation may include RIM providing the username, IP address, or other identifying information about You.

Upon termination of any account You may have with RIM, You authorize RIM to delete any files, programs, data and email messages associated with such account.

If You are in default of any obligation under this Agreement, the BlackBerry End-User/Software License Agreement, or Your agreement with Your wireless service provider, RIM may, in addition to all other rights and remedies provided by this Agreement or by law, terminate this Agreement by providing written notice of termination. "Events of Default" shall include, without limitation, failure to comply with or perform a term or condition contained herein, including without limitation the obligations contained in Section 7. If RIM is prevented from providing any portion or all of any of the BIS by any law, regulation, requirement or ruling issued in any form whatsoever by judicial or other governmental body, or if a notice from a government agency or department indicates either RIM or any provider of Third Party Services is not permitted to provide any portion or all of the Third Party Services, RIM may immediately cease providing the BIS without any liability whatsoever to You. Nothing herein shall be construed to require RIM to seek a waiver of any law, rule, regulation, or restriction, or seek judicial review or appeal of any court order. In addition, You understand, acknowledge and agree that RIM may terminate this Agreement without notice if You are in default of any obligation under this Agreement and/or if (1) You or any user of the BIS provided to You (or any component thereof) interfere with RIM's customer service or business operations; (2) You use the BIS in a way that has a detrimental effect upon (or where Your use is detrimental to) RIM, its customers or its product(s) and service(s) and/or results in a degradation of the BIS and, among other things, its availability to other RIM customers; (3) You use any portion of the BIS, in any manner inconsistent with the instructions found in the applicable user documentation or to commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious act; (4) You materially contravene any other agreement that You may have with RIM, including without limitation, the terms of any click-wrap or shrink-wrap agreement that You have agreed to with respect to RIM's products or software or otherwise, (5) You violate any code of conduct or other guidelines by which You may be governed in conjunction with Your use of the BIS, or (6) You sell or transfer, or attempt to sell or transfer the BIS or any part thereof without the prior written permission of RIM, or use or allow the use of the BIS other than for Your own internal or personal purposes; or (7) You fail to make payments to Your wireless service provider in relation to the BIS or for any other services provided to You from RIM.

You agree that nothing in this Agreement shall affect any rights and recourse to any remedies, including without limitation interim, interlocutory, injunctive and other equitable relief, or other remedies that RIM may have under any laws in Your jurisdiction (collectively "Injunctive Relief"), relating to the protection of RIM's confidentiality, intellectual property or other proprietary rights. In the event that You breach RIM's confidentiality, intellectual property or other proprietary rights and a court in Your jurisdiction does not grant an order for Injunctive Relief, You acknowledge that RIM will have the right to receive damages from You in the amount of USD5000 per day during the period that You remain in breach. You agree that such amount is a reasonable and appropriate estimation of damages relating to breaches of RIM's confidentiality, intellectual property or other proprietary rights.

## **15. Notice**

Except as otherwise provided in this Agreement, all notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered in person, by courier or deposited in the mail, postage prepaid, certified mail, return receipt requested, and addressed to You at the billing address supplied to RIM by You, and addressed to Research In Motion Limited, 295 Phillip Street, Waterloo, Ontario, Canada N2L 3W8 at the same address. In addition to the foregoing, RIM may, at its option, give You any notice under this Agreement by email. You may also contact RIM at [legal@rim.com](mailto:legal@rim.com).

## **16. Survival**

The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance hereof by either or both Parties, including without limitation the provisions of Sections 10, 11, 12, 13, 16, 18 and 19 of this Agreement, shall so survive the completion of performance, cancellation or termination of this Agreement.

## **17. Force Majeure**

Notwithstanding any other provision of this Agreement, neither Party shall be deemed in default of this Agreement for failure to fulfill its obligations when due to causes beyond its reasonable control. This provision shall not be construed as excusing non-performance of any obligation by either Party to make payment to the other Party under this Agreement.

## **18. Governing Law and Dispute Resolution**

This Agreement is to be governed by and construed as follows: (1) if You are a resident of the European Union, this Agreement is to be governed and construed in accordance with the laws of England and Wales, except for any body of law governing conflicts

of law; (2) if You are a resident of any other jurisdiction in the world, this Agreement is to be governed and construed in accordance with the laws of Ontario, Canada, except for any body of law governing conflicts of law; or (3) to the extent that courts will not enforce the previous subparagraph (2), this Agreement is to be governed and construed in accordance with the laws applicable in Your jurisdiction. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act are hereby excluded in their entirety from application to this Agreement. If You (1) are a resident of the Cayman Islands or You use the BIS from the Cayman Islands, or (2) live in a jurisdiction that does not have copyright legislation in force, or (3) live in a jurisdiction for which copyright legislation in force does not apply to software, then, in addition to any other obligations You may have under the applicable law in Your jurisdiction, You expressly agree that the *Copyright Act of Canada* shall be deemed to apply to You and Your use of the BIS. All disagreements and disputes arising out of or in connection with this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration. The decision of the arbitrator shall be final and binding upon the Parties (save in the case of manifest error). The award of the arbitrator shall be made in writing and shall have reasons. The arbitrator's award shall make provision for the costs of the arbitration to be paid by the Parties in such proportions as the arbitrator decides appropriate. Unless otherwise prohibited by law in Your jurisdiction, the arbitration shall be: (1) held in London, England; (2) conducted under governing law as determined by this Section; (3) conducted in the English language; (4) settled under the Rules of Arbitration of the International Chamber of Commerce ("Rules"); and (5) heard by one arbitrator appointed in accordance with the said Rules and to be mutually agreed to by the Parties within 30 days of the appointment of the arbitrator, failing which agreement the arbitrator shall be nominated by the President in office at the time of the request for arbitration of the British Computer Society (or its successor) on the application of either Party. If the provisions of the foregoing sentence are prohibited by law in Your jurisdiction, the arbitration shall be: (1) held in Your jurisdiction, (2) conducted under governing law as determined by this Section; (3) conducted in the English language, (4) settled by arbitration in accordance with the Rules or arbitration rules commonly used in Your jurisdiction, and (5) heard by one arbitrator appointed in accordance with the applicable rules and to be mutually agreed to by the Parties within 30 days of the appointment of the arbitrator, failing which a neutral third party shall appoint the arbitrator. No dispute between the Parties, or involving any person but You, may be joined or combined together, without the prior written consent of RIM. ACCORDING TO THE COUNCIL REGULATION (EC) No 44/2001 OF 22 DECEMBER, 2000 ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS, YOUR STATUTORY RIGHTS (INCLUDING ANY STATUTORY RIGHTS IN RESPECT OF LATENT DEFECTS) AS A CONSUMER ARE NOT AFFECTED. Notwithstanding the foregoing, RIM has the right to institute legal or equitable proceedings in any court of competent jurisdiction for claims or disputes regarding: (i) amounts owed by You in connection with Your purchase of the BIS; and (ii) Your violation or threatened violation of Sections 4, 6, 7, 8, 9, 13 or 14 of this Agreement. The Parties specifically agree that, in the event that there is a dispute under this Agreement and such dispute is to be resolved in a court of law, such dispute shall not be resolved by jury trial.

## 19. General Provisions

Except as otherwise specifically stated in this Agreement, the provisions herein are for the benefit of the Parties and not for any other person or entity. No joint venture, partnership, employment, or agency relationship exists between You and RIM as a result of this Agreement. Waiver by either Party of any default by the other Party shall not be deemed a continuing waiver of such default or a waiver of any other default. RIM's performance of this Agreement is subject to existing laws and legal process, and nothing contained in this Agreement is in derogation of RIM's right to comply with governmental, court and law enforcement requests or requirements relating to Your use of the BIS. RIM may assign this Agreement without notice to You. You shall not assign this Agreement without the prior written consent of RIM (such consent may be withheld or conditioned at RIM's discretion). RIM may perform all obligations to be performed under this Agreement directly or may have some or all obligations performed by its contractor or subcontractors. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect. Unless otherwise specified herein, this Agreement constitutes the entire agreement between You and RIM with respect to the BIS and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written, between You and RIM with respect to the BIS. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

BIS EUA (Global) 080405 (English)

BIS EUA Global (English) 012207 (Global Version 082505)