

## BLACKBERRY SDK LICENSE AGREEMENT

**THIS BLACKBERRY SDK LICENSE AGREEMENT (THIS "AGREEMENT") IS A LEGAL AGREEMENT BETWEEN YOU INDIVIDUALLY IF YOU ARE AGREEING TO IT IN YOUR OWN CAPACITY, OR IF YOU ARE AUTHORIZED TO ACQUIRE THE SDK ON BEHALF OF YOUR COMPANY OR ORGANIZATION, BETWEEN THE ENTITY FOR WHOSE BENEFIT YOU ACT ("YOU") AND RESEARCH IN MOTION LIMITED ("RIM"). BEFORE DOWNLOADING THE SDK, PLEASE CAREFULLY READ THE FOLLOWING AGREEMENT. BY CLICKING ON THE APPROPRIATE BUTTON BELOW, OR BY DOWNLOADING, INSTALLING, ACTIVATING OR USING THE SDK, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU HAVE ANY QUESTIONS OR CONCERNS ABOUT THE TERMS OF THIS AGREEMENT, PLEASE CONTACT RIM AT [legalinfo@rim.com](mailto:legalinfo@rim.com). IF, PRIOR TO DOWNLOADING, INSTALLING, ACTIVATING OR USING THE SDK, YOU DECIDE YOU ARE UNWILLING TO AGREE TO THE TERMS OF THIS AGREEMENT, YOU HAVE NO RIGHT TO USE THE SDK. IN THIS CASE, DO NOT ATTEMPT TO DOWNLOAD THE SDK BY ANY MEANS AND IF YOU HAVE ALREADY DONE SO, PROMPTLY DELETE THE SDK.**

### 1. Definitions

"**Airtime Service Provider**" means the service provider of wide-area wireless network services and any other network services (including wireless local area network, satellite service and Internet services) that support the BlackBerry Solution.

"**API**" means an application programming interface.

"**Applications**" means: (a) in the general case, software application programs, or portions thereof, developed by You using the SDK for use with the BlackBerry Solution; (b) in the case of the BlackBerry Synchronization Server SDK, includes Connectors and/or Synchronization Code developed by You using the BlackBerry Synchronization Server SDK; and (c) in the case of the BlackBerry Attachment Server SDK, includes Attachment Service Distillers, or portions thereof, developed by You for use in conjunction with the Attachment Service. Notwithstanding the foregoing, in no event shall Applications include any software application programs, or portions thereof, that modify, delete, duplicate or replace all or any material part of: (a) the email functionality or features of all or any portion of the BlackBerry Solution; (b) a Synchronization Server or Synchronization Agent which has been incorporated by RIM into any portion of the BlackBerry Solution; or (c) any Distillers which have been incorporated by RIM into the Attachment Service.

"**Authorized Users**" means: (a) any of Your employees; or (b) any consultants, independent contractors and any other persons You authorize to use or to whom You otherwise make available the SDK, in each case to use on Your behalf to develop Applications.

"**BlackBerry Handheld Product**" means a RIM wireless handheld device that is, or has been distributed and/or sold in association with a "BlackBerry" trademark (whether or not such BlackBerry Handheld Product also has a "RIM" trademark).

"**BlackBerry Handheld Software**" means RIM proprietary software (comprised of RIM proprietary: software, firmware, interfaces, content and data; and Third Party Components) designed for use on a Handheld Product that is (a) loaded on the Handheld Product as originally shipped by RIM; or (b) transmitted, distributed or otherwise made available by or on behalf of RIM from time-to-time for use on a Handheld Product.

"**BlackBerry PC Software**" means RIM proprietary personal computer software (comprised of RIM proprietary: software, interfaces, content and other data; and Third Party Components) designed for only a single user to use and access at any one time.

"**BlackBerry Server Software**" means RIM proprietary server software (comprised of RIM proprietary: software, interfaces, content and data; and Third Party Components), a single copy of which is designed to be accessed by multiple Handheld Products at any one time.

"**BlackBerry Solution**" means the combination of RIM proprietary products and services used by a particular user and includes Software, Services and applicable documentation, and may include a BlackBerry Handheld Product or be used in conjunction with another Handheld Product, *e.g.* one that is described in Subsection (b) of the definition of Handheld Product below.

"**Distributable Code**" means Distributable Object Code and Distributable Source Code.

"**Distributable Object Code**" means the object code of those components of the SDK which are listed in the COMPONENTREDISTRIBUTION.TXT file, DISTRIBUTABLECODE.TXT file and/or other similar file(s) either included as part of the SDK or otherwise provided to You, as applicable. For the purposes of the BlackBerry Synchronization Server SDK "Distributable Object Code" includes the object code installer which is required to install a Connector.

"**Distributable Source Code**" means certain application templates, code stubs, code snippets, example applications, sample code and code fragments in source code form either included as part of the SDK or otherwise provided to You.

"**Handheld Product**" means: (a) a wireless handheld device manufactured by or on behalf of RIM; and/or (b) a wireless handheld device, other than a device referred to in (a) above, on which BlackBerry Handheld Software or any portion thereof has been designed by RIM to operate.

"**License**" has the meaning set out in Section 2.

"**Open Source License**" has the meaning defined in Subsection 2(e).

"**Reverse Engineer**", "**Reverse Engineered**" and "**Reverse Engineering**" includes, without limitation, any act of reverse engineering, translating, disassembling, decompiling, decrypting or deconstructing (including any aspect of "dumping of RAM/ROM or persistent storage", "cable or wireless link sniffing", or "black box" reverse engineering) 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), service, or hardware or any method or process of obtaining or converting any information, data or software from one form into a human-readable form.

"**RIM Base Map Product Offerings**" means the map product offerings created by RIM using TANA Map Products, that provide certain limited functionality and that are accessible from an Application through map APIs identified in the SDK documentation by their class/method names and descriptions (but excluding map APIs (if any) which are designated in the documentation as "Enhanced map APIs").

"**RIM Handheld Product**" means a RIM wireless handheld device that is distributed and/or sold under a "RIM" trademark and is not, and has not been, distributed and/or sold under a "BlackBerry" trademark or otherwise sold as part of the BlackBerry Solution.

"**SDK**" or "**Software Development Kit**" means all software (including programs, tools, sample code, templates, libraries and interfaces, including APIs and Updates), APIs, information, data, files, documentation, and other materials, whether tangible or intangible, in whatever form or medium, provided to You at any time, either by way of downloading from a RIM or a RIM affiliate website or otherwise provided to You, for any development purposes (unless such materials are provided pursuant to a separate license agreement for such materials by RIM and/or its affiliates). Except as expressly specified herein the SDK shall not include the Software or any Third Party Software. Your use of such software shall be governed by and is subject to Your agreeing to the terms of separate software licenses for such software. RIM's SDKs include, without limitation, the SDKs described in Schedule 1.

"**Service**" means any RIM service provided in conjunction with the BlackBerry Solution, including, without limitation, RIM's infrastructure.

"**Software**" means RIM proprietary software and includes, without limitation, BlackBerry Server Software, BlackBerry Handheld Software and BlackBerry PC Software. Software shall not include any Third Party Software.

"**TANA Map Products**" means the map products which RIM has licensed from Tele Atlas North America, Inc. ("TANA").

"**Third Party Software**" means software proprietary to a third party, including, without limitation, the software listed in Schedule 2, but shall not include Third Party Components. Additionally, the TANA Map Products are Third Party Software, and in order to access and use the TANA Map Products other than as part of the RIM Base Map Product Offerings You must enter into a license agreement with TANA, as further explained in Subsection 2(f). Regardless of the terms of any such additional software license, RIM accepts no obligations to You in relation to Third Party Software.

"**Third Party Components**" means software, interfaces and firmware licensed by RIM from a third party for incorporation into the SDK and distributed as an integral part of the SDK.

"**TTS Functionality**" means the text-to-speech functionality that is included within the Java Development Environment (JDE) SDK and that is accessible through APIs as described in the SDK documentation.

"**Updates**" means bug fixes, service packs, hot fixes, updates, upgrades, enhancements, modifications, and new releases or versions of the SDK.

## 2. License and License Restrictions

- (a) Subject to the terms and conditions herein, RIM grants You a personal, revocable, non-exclusive, royalty free, non-transferable license to install and use a reasonable number of copies of the SDK to be used solely in the manner described in the documentation contained in the SDK and solely for the purposes of developing, testing and debugging Applications (and in the case of the BlackBerry Application Web Loader solely for the purposes of facilitating the loading of Applications on Handheld Products) (the "License"). You may not copy the SDK or any portion thereof except as expressly permitted herein. For the purposes of this provision "copy" shall not include copying of statements and instructions of the SDK or any portion thereof that naturally occurs during normal program execution when used in accordance with and for the purposes described in the documentation or in the course of making unmodified copies of the SDK or documentation as part of the regular back-up of the SDK in accordance with standard industry business practices. Notwithstanding the foregoing, if RIM has terminated any license granted to You by RIM for any SDK, no right to use the SDK is granted to You hereunder. In such case You may contact [legalinfo@rim.com](mailto:legalinfo@rim.com).
- (b) Unless You obtain written authorization from RIM executed by an officer of RIM, You acknowledge that the License does not include and You are not licensed to develop, market, rent, distribute, transfer, license, sublicense, or furnish any applications which modify, delete, duplicate or replace all or any material part of: (i) the email functionality or features of all or any portion of the BlackBerry Solution except where such applications are developed for and distributed solely in connection with RIM Handheld Products in accordance with the License; (ii) the functionality or features of all or any portion of a Synchronization Server or Synchronization Agent which has been incorporated by RIM into any portion of the BlackBerry Solution; or (iii) the functionality or features of all or any portion of any Distillers which have been incorporated by RIM into the Attachment Service. You further agree not to engage in any of the aforementioned activities or to attempt to do so using any part of the

SDK.

- (c) You may distribute the Applications provided that, except as expressly permitted herein, or as authorized by an officer of RIM in writing, You do not directly or indirectly market, rent, distribute, transfer, license, sublicense, sell, or furnish to any third party all or any part of, the SDK or copies of any part thereof including in conjunction with or as part of Applications.
- (d) To the extent that Distributable Source Code is provided as part of the SDK, You may use, modify and compile the Distributable Source Code solely for the purposes of developing Your Applications.
- (e) You may distribute any Distributable Code provided that You shall: (i) add significant primary functionality to it in Your Applications; (ii) distribute such code in executable form only; (iii) include the following copyright notice within Your Application's source code in the same locations as Your own copyright notice (and if You do not include a copyright notice, then at least on one of the packaging, manuals or "about" box): "Portions copyright (c) 2002-2010 Research In Motion Limited. All rights reserved."; (iv) not provide a separate price for or charge a license fee or royalty for the Distributable Code distinct from the fee You charge for Your Applications; and (v) not distribute, link or integrate the Distributable Code such that any part of it becomes subject to an Open Source License. In addition You shall require users of Your Applications to agree to the following minimum license terms applicable to the Distributable Code: (A) the license granted is a non-exclusive, terminable license for user to use the Distributable Code only on or in conjunction with Your Application; (B) except for the limited license to use the Distributable Code on or in conjunction with Your Application, the user acquires no intellectual property or other proprietary rights, including, without limitation, patents, designs, trademarks, copyright or rights in any confidential information in or related to the Distributable Code; (C) Reverse Engineering the Distributable Code is prohibited, except to the extent that You are expressly precluded by law from imposing such restrictions; (D) the user must cease all use of the Distributable Code within a reasonable period of time following expiration or termination of the license agreement; (E) RIM, specifically, or as one of Your suppliers, shall not be liable to user for any damages whatsoever; (F) the user shall import, export, re-export and use the Distributable Code only in accordance with the laws and regulations of the of the country(ies) and/or territory(ies) in which the Distributable Code is used, imported, exported and/or re-exported; (G) You make no warranties, express or implied, related to the Distributable Code on RIM's behalf to users of the Applications that include Distributable Code; and (H) the user shall not alter any copyright, trademark or patent notice in the Distributable Code. For the purposes of this Agreement, an "Open Source License" is any license which requires, as a condition of use, modification, and/or distribution of any software subject to such license that such software and other software incorporated into, integrated with, derived from and/or distributed with such software be: (1) disclosed or distributed in source code form; (2) licensed for the purposes of making modifications or derivative works; (3) permitted to be Reverse Engineered; (4) reproduced and/or redistributed at no or minimal charge; and/or (5) otherwise distributed on terms that impede the ability to distribute and license such software as the licensor of such software sees fit.
- (f) You may use the SDK to develop links from Your Applications to RIM Base Map Product Offerings for use with Handheld Products, provided however that any such linking is limited to passing information to the RIM Base Map Product Offerings for display to the user. Neither You nor Your Applications may manipulate or otherwise alter the output of the RIM Base Map Product Offerings or enhance or otherwise alter the functionality offered by the RIM Base Map Product Offerings. If You wish to develop Applications which offer map-based functionality over and above that available through the RIM Base Map Product Offerings, You may be able to use the "Enhanced map APIs" (if any are provided as part of Your version of the SDK or otherwise) to enable Your Applications to access the TANA Map Products (as same may be reformatted, compressed, adapted, translated or otherwise processed by RIM) which are stored on RIM's infrastructure. HOWEVER THE TANA MAP PRODUCTS ARE THIRD PARTY SOFTWARE, AND YOU HAVE NO RIGHT TO DEVELOP, COMMERCIALY LAUNCH OR OTHERWISE COMMERCIALY EXPLOIT ANY APPLICATIONS THAT ACCESS THE TANA MAP PRODUCTS (OTHER THAN AS PART OF THE RIM BASE MAP PRODUCT OFFERINGS AS PROVIDED ABOVE) UNLESS AND UNTIL YOU EXECUTE A LICENSE DIRECTLY WITH TANA GRANTING YOU THE RIGHT TO DO SO. If no Enhanced map APIs are included in Your version of the SDK You should contact RIM for information as to their availability.
- (g) You must require users of Your Applications, in the license terms applicable to Your Applications, to agree to a prohibition on Reverse Engineering Your Applications, except to the extent that You are expressly precluded by law from imposing such restriction.

3. APIs. Notwithstanding Section 2, You acknowledge and agree that You will not be permitted to access certain APIs in the SDK for all or certain purposes unless the code for Your Application has been electronically signed by RIM. You further acknowledge and agree that RIM may, but has no obligation, to require You to submit certain information respecting Your identity, Your Application, and Your having obtained certain third party licenses, as a condition of RIM signing the code for Your Application. Furthermore, RIM reserves the right to refuse to sign the code for Your Application, or to revoke any and all code signing already granted for Your Application including, without limitation, if, at any time: (a) RIM deems, in its sole and reasonable discretion, that Your Application does not require access to the APIs for which code signing is requested in order to be used in conjunction with the BlackBerry Solution or Handheld Products as the case may be, (b) RIM has a reasonable apprehension that Your Application may interfere with, degrade, or otherwise adversely affect the BlackBerry Solution, Handheld Products, and/or any other software, system, network or data, (c) RIM has a reasonable apprehension that the information that You have provided to RIM in order to obtain access to such APIs is untrue, inaccurate, not current or incomplete, (d) RIM is prohibited from signing the code for Your Application due to governmental, contractual or other restrictions of applicable authority, such as a court of competent jurisdiction, (e) You have breached, or RIM has a reasonable apprehension of Your imminent breach, of this Agreement or any other agreement between You and RIM, (f) RIM learns that You do not have a license required under certain third party intellectual property rights in place, or (g) Your Application accesses or is designed to access the TTS Functionality.

4. Certification. You acknowledge and agree that You are solely responsible for obtaining any certification of Your Applications required by an Airtime Service Provider respecting Your Application's compatibility and safe operation with the wireless network of such Airtime Service Provider. Notwithstanding any other provision in this Agreement, You further agree that RIM shall have no liability whatsoever to any third party for any claim or action relating to any of Your Applications, and that even if RIM signs the code for Your Application, such signing shall not in any event constitute an endorsement, certification, representation, guarantee, covenant or warranty with respect to Your Application or Your Application's compatibility with the BlackBerry Solution or any part thereof, or

with any other product, software or service, including without limitation the wireless network of any Airtime Service Provider, and You shall not represent it as such to any other person.

5. SDK Updates. RIM is under no obligation to provide You with any Updates. However, if RIM does provide You with any Updates, such Updates shall be subject to the terms and conditions of this Agreement (including the License) or such agreement, if any, which accompanies such Updates, including a possible requirement to make payments to RIM in respect thereof. Further, to enable all or part of the functionality of an Application you may need to enter into one or more additional agreements with RIM.

6. Limitation of License Grant. This License does not give You a license or any entitlement to any portion of the BlackBerry Solution or to any airtime services. If You require the BlackBerry Solution or any portion thereof and/or airtime services from an Airtime Service Provider, You are solely responsible for arranging at Your own expense the necessary licenses and agreements.

7. Use of SDK. You are responsible for all activities with respect to the SDK undertaken by You and Your Authorized Users and You will ensure that:

- (a) You and Your Authorized Users will only use the SDK in accordance with this Agreement, all applicable laws and regulations, and the documentation provided by RIM as part of and for use in conjunction with the SDK;
- (b) You have the right and authority to enter into this Agreement, either on Your own behalf or on behalf of a company or other entity, and You are over the age of majority;
- (c) Any information that is provided to RIM in relation to this Agreement is true, accurate, current and complete;
- (d) You and Your Authorized Users will not knowingly, after making such inquiries as a reasonable person in Your or Your Authorized Users' position would undertake, develop or distribute Applications, the use of which in isolation or with any other software, system, network, or data would, in RIM's judgement, acting reasonably, contain functionality that could be used for inappropriate or improper purposes or interfere with the proper operation of, degrade, cause damage to or adversely affect any software, hardware, services, system, network or data used by any person including RIM or an Airtime Service Provider, including without limitation the BlackBerry Solution and Handheld Products, or otherwise have a detrimental effect upon RIM, an Airtime Service Provider or any of their respective customers or products or services, and You will immediately cease any such activity upon RIM delivering notice of same to You;
- (e) You and Your Authorized Users will not use the SDK to develop any Applications which are intended to be used to commit or would be used predominantly to commit any crime or other illegal or tortious acts in the jurisdiction in which You or Your distribution channels distribute that Application;
- (f) Applications do not, and will not contain any: (i) virus, Trojan horse, worm, backdoor, shutdown mechanism, malicious code, sniffer, bot, drop dead mechanism, or spyware; or (ii) any other software, code, or program that is likely to or is intended to: (A) have an adverse impact on the performance of, (B) disable, corrupt, or cause damage to, or (C) cause or facilitate unauthorized access to or deny authorized access to, or cause to be used for any unauthorized or inappropriate purposes, any software, hardware, network, services, systems, or data ("Malware"). If You become aware of the existence of any Malware in or relating to Your Applications, You shall promptly notify RIM; and
- (g) You will cooperate with RIM and provide information requested by RIM to assist RIM in investigating or determining whether there has been a breach of this Section 7 or any other provision of this Agreement and upon request provide RIM with access to the premises and computers where the SDK is or has been used. You hereby authorize RIM to cooperate with: (1) law enforcement authorities in the investigation of suspected criminal violations; and (2) third parties in investigating acts in violation of this Agreement. Such cooperation may include RIM providing Your username, IP address or other identifying information.

8. Intellectual Property. This Agreement does not transfer or assign to You, any intellectual property right including any patent, design, industrial design, trademark, servicemark, copyright or rights in any confidential information or trade secrets, in or related to the SDK or any part thereof. The SDK and all copies thereof remain the property of RIM and are licensed and not sold to You under this Agreement. You acknowledge that there are no implied licenses granted under this Agreement, and all rights, save for those license rights expressly granted to You hereunder, shall remain with RIM. This Agreement only provides a license for the SDK itself and You may need licenses, including without limitation patent and copyright licenses from RIM and from third parties, to use, manufacture, reproduce or distribute Your Applications, and You agree that RIM has no obligation to You with respect to providing notice of or acquiring such licenses. You agree that nothing in this Agreement shall adversely affect any rights and recourse to remedies, including without limitation, injunctive relief that RIM may have under any applicable laws relating to the protection of RIM's intellectual property or other rights.

9. Feedback. You and Your Authorized Users may provide RIM with feedback on the SDK, including, without limitation, feedback on bugs and faults within or relating to the SDK and/or BlackBerry Solution or suggestions for improvements or other changes to the SDK and/or BlackBerry Solution. You hereby agree that RIM shall own all feedback, ideas, concepts and changes to any portion of the SDK and/or BlackBerry Solution developed or identified in the course of or as a result of Your use of the SDK and all associated intellectual property rights ("**Results**"), and You hereby assign to RIM all of Your right, title and interest thereto. You will not knowingly provide RIM Results that are subject to third party intellectual property rights. You agree to cooperate fully and to ensure that Your employees, officers, independent contractors and Your Authorized Users cooperate fully with RIM with respect to signing further documents and doing such other acts as are reasonably requested by RIM to confirm that RIM owns the Results, and to enable RIM to register and/or protect any associated intellectual property rights and/or confidential information.

10. Export Restrictions; U.S. Government Rights. You acknowledge that the SDK, including without limitation the Distributable Code, may include encryption software that may be subject to export, import, and/or use controls by Government Authorities (as hereinafter defined) by way of law or regulation. You agree that the SDK will not be exported, imported, used, transferred, or re-exported except in compliance with the laws and regulations of the national and/or other (sub-national and/or supranational) government authorities with authority over the country(ies) and/or territory(ies) from which the SDK is being exported or to which the SDK is being imported (collectively, the "Government Authority(ies)"). Without limitation, the SDK will not be exported: (a) to any

country on Canada's Area Control List; (b) to any country subject to UN Security Council embargo or action; (c) contrary to Canada's Export Control List Item 5505; (d) to countries subject to U.S. economic sanctions and embargoes; and (e) to persons or entities prohibited from receiving U.S. exports or U.S.-origin items. If You have any questions regarding this Section 10, please contact RIM at [legalinfo@rim.com](mailto:legalinfo@rim.com). You hereby represent that: (i) to the best of Your knowledge You are eligible to receive the SDK under applicable law; (ii) You will not use the SDK in the development, production, handling, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or their missile delivery systems, or of materials or equipment that could be used in such weapons or their missile delivery systems, or resell or export to anyone or any entity involved in such activity; and (iii) You will ensure that Authorized Users use the SDK in accordance with the foregoing restrictions. You hereby agree to indemnify RIM, its affiliates and the applicable Airtime Service Provider(s) from any claims, actions, liability or expenses (including reasonable lawyers' fees) resulting from Your failure to act in accordance with the acknowledgements, agreements, and representations in this Section 10. Notwithstanding any agreement with a third-party or any provision of law, regulation or policy, if You are any agency of the government of the United States of America, then Your rights in respect of the SDK shall not exceed the rights provide under this Agreement, unless expressly agreed upon by RIM in a written agreement, signed by Chief Operating Officer or Chief Executive Office of RIM, between You and RIM.

11. Confidentiality.

- (a) You acknowledge and agree that the SDK was developed at considerable time and expense by RIM and contains valuable trade secrets and confidential information of RIM. Accordingly, You agree to maintain the SDK in strict confidence and except as expressly provided in Section 2, You: (i) will not disclose or provide access thereto to any person except to Authorized Users with a need for access to exercise the License granted herein or; (ii) use the SDK for any purpose not expressly authorized hereby, or permit or authorize any other person to do so.
- (b) The restriction in Subsection 11(a) shall not apply to the extent that such information is in the public domain or hereafter falls into the public domain through no fault of Yours. Any combination of RIM trade secrets and information that forms part of the SDK shall not be deemed to be public merely because individual parts of the SDK are in the public domain, unless the combination itself is in the public domain.
- (c) You agree that, except to the extent that RIM is expressly precluded by law from prohibiting You and Your Authorized Users from doing so and except as expressly authorized in this Agreement, You and Your Authorized Users will not alter, modify, adapt, create derivative works, translate, deface, decompile, disassemble or Reverse Engineer the SDK, or attempt to do so, or permit, acquiesce, authorize or encourage any other party to do the same. Except as expressly provided in Section 2, You do not have the right to obtain or use any source code for programs included in the SDK.

12. Term. This Agreement shall be effective upon Your agreement to be bound by the terms of this Agreement, (as manifested by the conduct described in the first paragraph above) and shall end upon termination of this Agreement in accordance with the provisions set out herein. Unless otherwise authorized by RIM and subject to Section 13, You must destroy all copies and component parts of the SDK licensed under this Agreement within one (1) week of the termination of this Agreement, and You may be required to provide proof of such destruction to RIM. Upon the termination of this Agreement the License shall immediately terminate and You shall promptly stop all use of the SDK.

13. Termination. Any breach of this Agreement could cause RIM irreparable harm and You agree that RIM may obtain a temporary or permanent injunction against any breach or threatened breach thereof. If You or any Authorized User breach any provision of this Agreement, RIM may terminate this Agreement and the License granted hereunder, by delivering notice of termination to You. You will be deemed to be in breach of this Agreement if: (a) You fail to comply with or perform a term or condition herein; or (b) You or any Authorized User interferes with RIM's customer service or business operations; or (c) You materially breach any other agreement that You may have with RIM. RIM may also terminate this Agreement if RIM is prevented from providing any portion or all of the SDK by any law, regulation, requirement or ruling issued in any form whatsoever by judicial or other governmental body. 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, RIM reserves the right to terminate this Agreement on thirty (30) days notice to You for any reason whatsoever, provided that if there has been no allegation of wrongdoing on Your part or in relation to the use of Your Applications, RIM shall provide a reasonable period for You to continue to distribute any Distributable Code that is embedded in Your Applications at the time of termination, provided You continue to do so in accordance with the terms of this Agreement as if it were still in effect. RIM shall not have any liability to You or Your Authorized Users arising from or related to the termination of this Agreement or the License for any reason. 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 this Section 13 for cause, 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.

14. Indemnity/Liability. You shall defend, indemnify, and hold harmless RIM, RIM's successors, affiliates, agents and assigns and their respective directors, officers, employees and independent contractors (each a "RIM Indemnified Party") from any claims, costs, damages, losses, settlement fees, and expenses (including without limitation attorney fees and disbursements) incurred directly or indirectly by a RIM Indemnified Party as a result of Your or Your Authorized Users' breach of this Agreement and/or as a result of any claim, suit, judgment, settlement, or cause of action: (a) alleging the infringement, violation or misappropriation of any intellectual property right including a patent, design, industrial design, copyright, trade secret or trademark or other proprietary right by: (i) Your Application(s) or the use thereof, or the combination of Your Application(s) with any other hardware, software, system, or service, or (ii) Your or Your Authorized Users' combination of the SDK or any portion thereof with any hardware, software, system, or service other than the BlackBerry Solution; (b) alleging libel, slander, or defamation related to the use of Your Applications; (c) alleging any injury, death or property or other damage arising from or related to the performance or non-performance of any portion of the SDK or Your Applications; or (d) otherwise related to or arising from Your or Your Authorized Users' use of the SDK or any use or distribution of Your Applications (including Your development of Applications) or any portion thereof.

15. EXCLUSION OF WARRANTIES AND CONDITIONS.

- (a) RIM IS PROVIDING THE SDK "AS IS". RIM MAKES NO REPRESENTATIONS OR WARRANTIES, AND THERE ARE NO CONDITIONS, ENDORSEMENTS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED, (INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF QUALITY, PERFORMANCE, RESULTS, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, MERCHANTABLE QUALITY, DURABILITY, TITLE, NON-INFRINGEMENT OR ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF THE TRADE) ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ARISING OUT OF OR RELATED TO THE SDK, ITS PERFORMANCE OR ITS FAILURE TO PERFORM. THE PARTIES ALSO AGREE THAT THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT ("UCITA") AS ENACTED IN ANY STATE SHALL NOT APPLY TO THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY LAW UCITA IS HEREBY EXCLUDED IN ITS ENTIRETY FROM APPLICATION TO THIS AGREEMENT. YOU AGREE TO ASSUME ALL RISKS ASSOCIATED WITH YOUR AND YOUR AUTHORIZED USERS' USE OF THE SDK. YOU ARE RESPONSIBLE FOR TAKING PRECAUTIONARY MEASURES TO PREVENT THE LOSS OR DESTRUCTION OF YOUR DATA AND DATABASES SUCH AS, FOR EXAMPLE, MAKING REGULAR BACK-UPS AND VERIFYING THE RESULTS OBTAINED FROM USING THE SDK, AND RIM SHALL HAVE NO OBLIGATIONS OR LIABILITY WHATSOEVER WITH RESPECT TO ANY SUCH LOSS OR DESTRUCTION. YOU ACKNOWLEDGE THAT THE EXCLUSIONS AND LIMITATIONS SET OUT IN THIS AGREEMENT REFLECT THE FACT THAT THE SDK IS MADE AVAILABLE TO YOU AT NO CHARGE, AND THAT RIM WOULD HAVE TO CHARGE FOR THE SDK IF THESE LIMITATIONS AND EXCLUSIONS WERE NOT IN PLACE.
- (b) The SDK may include Sun Microsystems, Inc. ("Sun") Java code. Any such code is provided to You "AS IS" and at no charge with no representations, warranties or conditions either express or implied, including without limitation any warranties or conditions of merchantability, quality, performance, fitness for a particular purpose, durability, title or non-infringement. In no event shall either RIM or Sun be liable to You for any damages whatsoever, arising out of or in relation to the provision of the Sun Java code as part of the SDK, its performance or lack of performance, even if RIM or Sun has been advised of the possibility of such damages. You acknowledge that this limitation and exclusion is reasonable given that this code is provided at no charge.

16. EXCLUSION OF LIABILITY. IN NO EVENT SHALL RIM BE LIABLE FOR ANY DAMAGES WHATSOEVER DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD HAS BEEN DISCLOSED TO RIM.

17. LIMITATION OF LIABILITY. IN NO EVENT SHALL RIM BE LIABLE FOR ANY DAMAGES THAT EXCEED, IN THE AGGREGATE FOR ALL CLAIMS ARISING FROM OR RELATED TO THIS AGREEMENT OR THE SDK, THE SUM OF TWO-HUNDRED AND FIFTY CANADIAN DOLLARS.

18. Application. 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 of this Agreement; (b) to RIM and its affiliated companies as well as RIM's and such affiliated companies' directors, officers, employees, independent contractors and suppliers.

19. EXCEPTIONS. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS OR EXCLUSIONS OF CERTAIN TYPES OF DAMAGES AND/OR WARRANTIES AND CONDITIONS. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL NOT APPLY IF AND ONLY IF AND TO THE EXTENT THAT THE LAWS OF A COMPETENT JURISDICTION REQUIRE LIABILITIES BEYOND AND DESPITE THESE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS.

20. Consent to Collection of Information. By submitting personal information about You and/or Your Authorized Users (which may or may not, depending on applicable law, include, without limitation, a name, email address, telephone number and/or Handheld Product information), to RIM and/or its affiliated companies through Your use of the SDK, You consent to the collection, use, processing, transmission, and/or disclosure of such information by RIM and/or its affiliated companies, and You warrant that You have obtained all consents necessary under applicable law from Your Authorized Users to disclose their personal information to RIM and/or its affiliated companies and for RIM and/or its affiliated companies to collect, use, process, transmit, and/or disclose such personal information, which may also include the use, processing, transmission, and/or disclosure of such information to Your and/or Your Authorized Users' Airtime Service Provider and/or within RIM and its affiliated companies, for: (a) the internal use of RIM and its affiliated companies, including, without limitation: (i) understanding and meeting Your needs and preferences, (ii) developing new and enhancing existing services and product offerings, and (iii) managing and developing RIM's business and operations; (b) any purpose related to the provision and/or Your use of the SDK and/or related products and/or services; (c) providing You with upgrades or updates of the SDK and/or related products and/or services; (d) any purposes permitted or required by any applicable law; and/or (e) any of the other purposes which are set out in RIM's then current privacy policy, which may be viewed at <http://www.blackberry.com/legal/privacy.shtml>. The collection, use, processing, transmission, and/or disclosure of Your or Your Authorized Users' personal information for the purposes noted above are in strict accordance with RIM's privacy policy and applicable privacy laws. RIM reserves the right to modify its privacy policy from time-to-time in its sole discretion and You agree to regularly review RIM's privacy policy for any updated information. If Your personal information is disclosed to Your and/or Your Authorized Users' Airtime Service Provider, Your or Your Authorized Users' Airtime Service Provider's privacy policy, or the terms and conditions relating to the collection, use, processing, transmission, and/or disclosure of personal information negotiated between RIM and Your and/or Your Authorized Users' Airtime Service Provider, if any, shall apply. You agree to inform all individuals whose personal information You provide to RIM that they may have rights to access and correct their personal information under applicable laws and regulations.

21. Assignment and Delegation. RIM may assign this Agreement without notice to You. You shall not assign this Agreement or Your rights hereunder without the prior written consent of RIM (such consent may be withheld or conditioned at RIM's sole discretion) and any assignment without RIM's prior written consent shall be null and void and of no effect. RIM may perform all obligations to be performed under this Agreement directly or may have some or all obligations performed by its affiliates, contractors or subcontractors.

22. Nature of Relationship. This Agreement shall not create or be construed as creating a joint venture, co-ownership, partnership, or agency relationship between You and RIM. Neither Party will have authority to or will hold itself out as having any authority to incur, assume, or create, orally or in writing, any liability, obligation or undertaking of any kind in the name of, or on behalf of, or in any way binding upon, the other.

23. Notices. Any notice, request, demand or other communication required or permitted hereunder shall be in writing and shall be sufficiently delivered to You if delivered by hand or sent by double registered mail, courier, facsimile, or email, addressed to the last address, fax number or email address (as applicable) provided to RIM by You or on Your behalf (provided that in the case of facsimile or email the receiver acknowledges receipt of the facsimile or email, as applicable). No notice shall be binding on RIM unless delivered by courier to RIM, addressed to RIM's legal department at 295 Phillip Street, Waterloo, Ontario, N2L 3W8.

24. General

- (a) Third Party Beneficiaries. RIM's affiliates and its affiliates' directors, officers and employees thereof are intended third party beneficiaries for the purposes of Sections 14-19. Except as other specifically stated in this Section, the provisions hereof are for the benefit of the parties and not for any other person or entity.
- (b) Waivers of Default. No party is to be deemed to have waived or forfeited any right under this Agreement, whether on the basis of failure, delay or any other legal or equitable doctrine, unless such waiver is made in writing signed by an authorized signatory of the party against whom the waiver is sought to be enforced. Waiver of any provision, or any breach of any provision, of this Agreement in one instance shall not constitute a waiver as to any other instance.
- (c) Survival. The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance hereof shall so survive the completion of performance, cancellation or termination of this Agreement. Without limiting the generality of the foregoing, the provisions of Sections 1, 10, 12-20, 23, this Section 24 and Subsection 2(g) shall survive the termination or expiration of this Agreement.
- (d) Governing Law and Dispute Resolution. If You reside in Canada and the SDK is shipped or delivered to You in any format in Canada, this Agreement is to be governed by and construed under the laws of the Province of Ontario. Otherwise, this Agreement is to be governed by and construed under the laws of the State of New York, excluding any body of law governing conflicts of law. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety from application to this Agreement. Any disagreement or dispute arising out of or relating to this Agreement, or the breach thereof, which the parties are unable to resolve after good faith negotiations, shall be submitted first to the upper management level of the parties. The parties, through their upper management level representatives shall meet within thirty (30) days of the dispute being referred to them and if the parties are unable to resolve such disagreement or dispute within thirty (30) days of meeting, except to the extent specifically prohibited by applicable law in Your jurisdiction, such disagreement or dispute shall be settled by final and binding arbitration to be conducted in Ontario, Canada in accordance with the Commercial Rules of the American Arbitration Association ("Rules") and shall be heard by one arbitrator appointed in accordance with the said Rules and to be mutually agreed to by the parties within thirty (30) days of the appointment of the arbitrator, failing which a neutral third party shall appoint the arbitrator. If the provisions of the foregoing are prohibited by law in Your jurisdiction, the arbitration shall be: (i) held in Your jurisdiction; (ii) settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce ("ICC Rules"); and (iii) heard by one arbitrator appointed in accordance with the ICC Rules and to be mutually agreed to by the parties within thirty (30) days of the appointment of the arbitrator, failing which a neutral third party shall appoint the arbitrator. Each party shall bear one half of the costs associated with the arbitration proceedings. No dispute between the parties, or involving any person but You, may be joined or combined together, without the prior written consent of RIM. Judgment upon the award rendered by the arbitrator may be entered in any Court having jurisdiction thereof. Notwithstanding the foregoing, RIM has the right to institute legal or equitable proceedings, including proceedings seeking injunctive relief, in a court of law for claims or disputes regarding Your violation or threatened violation of Sections 2-3, 7-11 of this Agreement. You irrevocably waive any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consent to service of process by mail or in any other manner permitted by applicable law and irrevocably consent and attorn to the jurisdiction of the courts located in the Province of Ontario or the State of New York, as the case may be, for any such claims arising from or related to 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. The parties hereby waive all rights to a trial by jury in any matter related to or arising from this Agreement. Unless, and only to the extent, prohibited by law in Your jurisdiction, any and all disagreements, disputes, mediation, arbitration or litigation relating to this Agreement shall be conducted in the English language, including, without limitation, any correspondence, discovery, submissions, filings, pleadings, oral pleadings and arguments, and orders or judgments.
- (e) Severability. To the extent any provision or portion thereof of this Agreement is determined to be illegal, invalid or unenforceable by a competent authority in any jurisdiction, then such determination of that provision or portion thereof will not affect: (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or (b) the legality, validity or enforceability of that provision in any other jurisdiction, and that provision (or portion thereof) will be limited if possible and only thereafter severed, if necessary, to the extent required to render the Agreement valid and enforceable.
- (f) Inconsistency. If there is any inconsistency between this Agreement and any software license or end user agreement provided with any portion of the SDK, the provisions of this Agreement shall apply to the extent of the inconsistency. If there is any inconsistency between this Agreement and any software license or end user agreement provided in connection with any Updates to the SDK, the provisions of such other license or end user agreements shall apply to the extent of the inconsistency.

- (g) Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and there are no provisions, understandings, communications, representations, warranties, undertakings, collateral agreements or agreements between the parties relating to the SDK other than as set out in this Agreement. This Agreement supersedes any prior or contemporaneous provisions, understandings, communications, representations, warranties, undertakings, collateral agreements and agreements between the parties, whether oral or written, with respect to the subject matter hereof, and You acknowledge that You have not relied on any of the foregoing in agreeing to enter into this Agreement. This Agreement may be amended at any time upon mutual agreement by the parties. Except to the extent that RIM is expressly precluded by applicable law, RIM further reserves the right to make changes to this Agreement either to reflect changes in business practices, or to reflect changes in or required by law, by providing You with reasonable notice of the change either electronically (as contemplated by Section 23) or by posting notice of the change at <http://www.blackberry.com/legal/index.shtml>. If You continue to use the SDK more than sixty (60) days after notice of the change has been given or You do not contact [legalinfo@rim.com](mailto:legalinfo@rim.com) within sixty (60) days after notice of the change has been given to inquire as to Your options, You shall be deemed to have accepted this change.



## SCHEDULE 1

### SDKs

RIM's SDKs include the following, as defined below.

1. BlackBerry Java Development Environment (JDE)

**"BlackBerry Java Development Environment (JDE)"** means the fully integrated development environment and simulation tool for building Java Micro Edition applications for Handheld Products.

2. BlackBerry Java SDK (formerly BlackBerry Java Development Environment (JDE) Component Package)

**"BlackBerry Java SDK"** means the development and simulation tool of the BlackBerry Java platform, but does not contain the fully integrated development environment.

3. BlackBerry Java Plug-in (formerly BlackBerry Java Development Environment (JDE) Plug-in for Eclipse)

**"BlackBerry Java Plug-in"** means the fully integrated development environment and simulation tool for BlackBerry Java development, built on the Eclipse plug-in platform.

4. BlackBerry MDS Studio

**"BlackBerry MDS Studio"** means the visual application design and assembly tool, built on the Eclipse plug-in platform, that enables developers to create rich client applications for Handheld Products.

5. BlackBerry WebWorks Plug-ins (formerly BlackBerry Plug-in for Microsoft Visual Studio and BlackBerry Web Development Plug-in for Eclipse)

**"BlackBerry WebWorks Plug-ins"** means the plug-ins for the Microsoft Visual Studio development environment and the Eclipse development environment that enables developers to create web applications and BlackBerry WebWorks applications for Handheld Products.

6. BlackBerry Synchronization Server SDK

**"BlackBerry Synchronization Server SDK"** means the SDK that enables the development of Applications that wirelessly synchronize data in enterprise backend databases with data on Handheld Products.

The BlackBerry Synchronization Server SDK includes the following components.

**"Connector"** means an extension or plug-in residing on a server on which BlackBerry Enterprise Server Software is installed that defines an interface between a server-based database and the corresponding application database of a software application residing on a Handheld Product, which extension or plug-in facilitates the synchronization of application data between such databases.

**"Synchronization Agent"** means the component of the BlackBerry Handheld Software that is designed to wirelessly synchronize application data between an application database of a software application resident on a Handheld Product and the corresponding server-based database in accordance with the interface defined by the Synchronization Code for that particular software application.

**"Synchronization Code"** means an extension or plug-in that resides on a Handheld Product that defines an interface between an application database of a software application residing on a Handheld Product and the corresponding server-based database, which extension or plug-in facilitates the synchronization of application data between such databases.

**"Synchronization Server"** means the component of the BlackBerry Enterprise Server Software that is designed to wirelessly synchronize application data between an application database of a software application resident on a Handheld Product and the corresponding server-based database in accordance with the interface defined by the Connector for that particular software application.

7. BlackBerry Attachment Server SDK

**"BlackBerry Attachment Server SDK"** means the SDK that allows custom attachment distillers to be created for the BlackBerry Attachment Service.

The BlackBerry Attachment Server SDK includes the following components.

**"Attachment Service"** means the portion of the BlackBerry Enterprise Server Software which facilitates the processing, formatting and transmission of email attachments in certain formats to a Handheld Product.

"**Attachment Service Distiller**" or "**Distiller**" means a software application which forms part of the Attachment Service and which processes and formats email attachments in a specific format in order that the Attachment Service can transmit such attachments through the BlackBerry Enterprise Server Software to a Handheld Product.

8. BlackBerry MDS Runtime

"**BlackBerry MDS Runtime**" means that portion of the BlackBerry Mobile Data System which operates on Handheld Products and provides runtime services for Applications.

9. BlackBerry Application Web Loader

"**BlackBerry Application Web Loader**" means the utility that enables the development of a mechanism to allow Applications to be loaded and installed onto Handheld Products using a PC internet browser.

10. BlackBerry Signing Authority Tool

"**BlackBerry Signing Authority Tool**" means a tool designed to enable the protection of data on Applications by enabling management of access to sensitive APIs and data through the use of public and private signature keys.

11. BlackBerry Device Simulators

"**BlackBerry Device Simulators**" means simulation tools that allow the simulation of Handheld Product behaviour to test and debug Applications.

12. BlackBerry Email and MDS Services Simulator Package

"**BlackBerry Email and MDS Services Simulator Package**" means server simulation tools that allow simulation of transmission of email services over the BlackBerry Device Simulator and a mailbox as well as simulation of MDS Services data traffic.

13. BlackBerry WebWorks Packager

"**BlackBerry WebWorks Packager**" means the standalone tool that aids in the packaging and compilation of a BlackBerry WebWorks application for Handheld Products.

14. BlackBerry WebWorks SDK

"**BlackBerry WebWorks SDK**" means the combination of the BlackBerry WebWorks Packager, documentation, sample code, and BlackBerry Device Simulators.

15. BlackBerry Theme Studio

"**BlackBerry Theme Studio**" means the suite of tools that allow designers and developers to create interactive media and content for Handheld Products.

The BlackBerry Theme Studio includes the following components.

"**BlackBerry Composer**" means the illustration and animation tool for designing animated scalable vector graphics for Applications.

"**BlackBerry Theme Builder**" means the graphic design tool that enables designers to produce themes for Handheld Products.

16. BlackBerry Enterprise Application Middleware

"**BlackBerry Enterprise Application Middleware**" means a set of libraries providing enterprise-focused functionality that facilitate access to device information by the enterprise as well as access to enterprise information via Handheld Products.

The BlackBerry Enterprise Application Middleware includes the following components.

**BlackBerry Enterprise Application Middleware Server** is a server-based software application that serves as a container for components that optimize, transform, and secure data for interaction with Handheld Products. It also provides administration and logging functionality.

**BlackBerry Enterprise Application Middleware Server Software** is a set of components that optimize, transform, or secure data, and can be contained either within the BlackBerry Enterprise Application Middleware Server, or within a third-party framework.

**BlackBerry Enterprise Application Middleware Agents** are client-side libraries that facilitate receipt of data from server-based applications, as well as provide information from the device back to server-based applications.

17. BlackBerry Push Service SDK

**“BlackBerry Push Service SDK”** means the combination of sample client application(s), installable server application(s), code samples, and documentation to allow developers to add push capabilities to their applications.

## **SCHEDULE 2**

### **THIRD PARTY SOFTWARE**

Third Party Software contained in BlackBerry MDS Studio includes certain Eclipse.org content, specifically certain plug-ins for the Eclipse plug-in platform that have been modified by RIM and are licensed pursuant to one or more open source licenses. These plug-ins include: net.rim.opensource.tools.apache; net.rim.opensource.tools.eclipse; net.rim.opensource.tools.eclipse.datatools; and net.rim.opensource.tools.eclipse.navigator.

Further Eclipse.org content, including the Eclipse IDE, is redistributed by RIM with certain distributions of BlackBerry MDS Studio, BlackBerry WebWorks Plug-ins, BlackBerry Java Plug-in, and the BlackBerry JDE Plug-in for Eclipse. Eclipse.org content, including the Eclipse IDE and the plug-ins referenced above, is licensed under the terms of certain open source licenses, including the Eclipse Public License version 1.0. More information on the Eclipse plug-in platform and the licenses applicable to Eclipse.org content is available at [www.eclipse.org/legal](http://www.eclipse.org/legal).

Certain SDKs, such as the BlackBerry JDE, may include Sun Java code. Such Sun Java code is licensed to you by Sun and/or its licensors, and is further subject to the provisions of Subsection 15(b). The licenses applicable to such Sun Java code are located in the appropriate software packages and/or license notice files.