

## BLACKBERRY RADAR DEVICE TERMS AND CONDITIONS OF SALE

1. **SCOPE.** These BlackBerry Radar Device Terms and Conditions of Sale, along with the terms and conditions applicable to the use and provision of the Service (as defined in the BlackBerry Radar Services Agreement), collectively referred to herein as the BlackBerry Radar Solution, (this “**Agreement**”) shall apply to all orders accepted by BlackBerry for the BlackBerry Radar Solution unless expressly modified by BlackBerry and the purchaser (the “**Customer**”) in a written agreement signed by BlackBerry and the Customer (each a “**Party**” and together the “**Parties**”). BlackBerry may offer for sale third party goods and services which, for the purposes of these Terms and Conditions of Sale only, shall be considered part of the BlackBerry Radar Solution. BlackBerry is defined as the specific BlackBerry entity with which your order is placed.

2. **TAXES AND FEES.** All fees are exclusive of any Taxes. Customer shall be responsible for and shall pay all taxes due under or in relation to this Agreement, including, but not limited to, withholding taxes, charges, expedited shipping fees, duties, levies or other applicable amounts (“**Taxes**”). Amounts payable by Customer to BlackBerry or an authorized reseller of the BlackBerry Radar Solution, as applicable, under this Agreement are exclusive of any Taxes. If Customer is required to withhold any amounts (including, without limitation, Taxes) from payments (“**Withholdings**”), then the amount payable by Customer shall be increased by the amounts of such Withholdings. Customer shall promptly furnish BlackBerry with all official receipts evidencing payment of Taxes due under or in relation to this Agreement.

### 3. PAYMENT AND INVOICING.

a. **Payment.** Unless otherwise agreed by BlackBerry on the order form executed by Customer and BlackBerry (the “**Order Form**”), all payments must be made net thirty (30) days from the invoice date in United States Dollars (USD). Any sum not paid by Customer when due will bear interest from the due date until paid at a rate of: (i) fifteen percent (15%) per annum; or (ii) the maximum rate permitted by law, whichever is less.

b. **Invoicing.** Customer may not withhold payment of any invoice on the basis of any dispute, including dissatisfaction with the BlackBerry Radar Solution, other than on the basis of a clear error on the face of the invoice including, for example, a calculation error or a quantity error. Payment by Customer shall not preclude Customer from questioning any charges that Customer believes to be improper or incorrect, within a reasonable period of time.

4. **LIMITED WARRANTY.** BlackBerry’s warranty relating to BlackBerry Radar Device (“**Device**”) is as described in the BlackBerry Radar Device Limited Warranty which can be viewed at: [https://docs.radar.blackberry.com/guides/BlackBerry\\_Radar\\_Device\\_Limited\\_Warranty.pdf](https://docs.radar.blackberry.com/guides/BlackBerry_Radar_Device_Limited_Warranty.pdf). THE WARRANTY ONLY EXTENDS TO YOU ON THE UNDERSTANDING THAT CUSTOMER IS A USER. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, ASSURANCES, REPRESENTATIONS OR GUARANTEES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONTINUED AVAILABILITY OF THE BLACKBERRY RADAR SOLUTION, OR NON-INFRINGEMENT, ARE EXPRESSLY DISCLAIMED.

5. **NO RETURNS.** Unless otherwise provided specifically in the applicable goods or service terms, no returns shall be accepted and no refunds or credits will be provided.

6. **INTELLECTUAL PROPERTY RIGHTS.** All software and firmware of any kind and all manuals and documentation are proprietary to BlackBerry (or its suppliers) and are subject to intellectual property laws. As between the Parties, Customer agrees that BlackBerry retains ownership of all rights, title and interest in all aspects of the BlackBerry Radar Solution other than the Devices for which title shall transfer to Customer upon full payment of the invoice for such Devices, or in the case of a lease of the Devices, upon full payment of the final invoice in the term of such lease. Customer and its affiliates and sub-contractors agree not to reverse engineer any aspect of the BlackBerry Radar Solution supplied under or in relation to this Agreement. Customer’s only rights with respect to any part of the BlackBerry Radar Solution shall be as provided under the terms of the BlackBerry Radar Asset Tracking Device and Subscription Terms and Conditions.

7. **APPLICABLE LAW AND JURISDICTION.** This Agreement will be governed and construed by the applicable laws described below and each party irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law and consents to the jurisdiction of the courts as follows: (a) where Customer is in Canada, or any other destinations not described in the following sub-parts (b), (c) and (d), the laws of the Province of Ontario, Canada and the courts of Toronto, Ontario, Canada; (b) where Customer is in the United States or U.S. territories, the laws of the State of New York, United States and the courts of New York City; (c) where Customer is in the UK, European Union, Middle East or Africa region, the laws of England and Wales and the courts of England and Wales; and,

(d) where Customer is in the Asia-Pacific region, the laws of the Republic of Singapore and the courts of Singapore.

IN ADDITION, THE PARTIES FURTHER WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LAWSUIT OR JUDICIAL PROCEEDING ARISING OR RELATING TO THIS AGREEMENT. THE PARTIES DISCLAIM THE APPLICATION OF THE UN CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS WITH REGARD TO THE INTERPRETATION OR ENFORCEMENT OF THIS AGREEMENT.

8. **SOFTWARE AND SERVICE USE RIGHTS.** The Device includes software as a service (“**Software**”); this Software is licensed to Customer. Except to the extent expressly provided by BlackBerry in writing or under relevant license terms, Software is provided “as is” without any warranties, assurances, or guarantees of any kind, either express or implied, including but not limited to, that the Software will be uninterrupted or error-free, or that errors will be corrected, or that data will be retained, or will not be deleted, lost or modified, to the maximum extent permitted under applicable law. The full terms and conditions applicable to the use of the Service can be viewed at: [https://docs.radar.blackberry.com/guides/BlackBerry\\_Radar\\_Master\\_Subscription.pdf](https://docs.radar.blackberry.com/guides/BlackBerry_Radar_Master_Subscription.pdf)

9. **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BLACKBERRY SHALL NOT BE LIABLE FOR: (I) ANY CLAIMS RELATED TO THIRD PARTY GOODS OR SERVICES; OR, (II) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF DATA, LOSS OF PROFITS OR REVENUE. FURTHER, THE AGGREGATE LIABILITY OF BLACKBERRY INCLUDING ITS AFFILIATES, FOR ANY AND ALL CLAIMS, WILL NOT EXCEED TWENTY-FIVE PERCENT (25%) OF THE TOTAL FEES PAID BY CUSTOMER IN THE LAST TWELVE MONTHS, WHETHER A CLAIM IS BASED ON CONTRACT, TORT, OR ANY OTHER LEGAL THEORY.

10. **INDEMNIFICATION.** Customer agrees to defend, indemnify and hold harmless BlackBerry, and its affiliates, and their respective directors officers, employees and agents from and against all claims and expenses, including attorneys’ fees, arising out of or related to (a) operation of any commercial business using the Device or Service or (b) any violation of the Agreement.

11. **PRIVACY POLICY.** Personal information that is collected, used, processed, transferred, stored and disclosed (collectively, “**Processed**”) by BlackBerry and its service providers will be treated in accordance with BlackBerry’s Privacy Policy (which is incorporated by reference into this Agreement and can be viewed at [www.blackberry.com/legal](http://www.blackberry.com/legal)). Customer’s, and/or its affiliates’, and/or its authorized users’ installation and/or use of the BlackBerry Radar Solution, may result in the Processing of personal information, as defined under applicable law, about Customer, its affiliates and/or authorized users (together, “**Users**”) by BlackBerry and its service providers, network service providers and third parties with goods or services used with the BlackBerry Radar Solution. Customer (on its behalf and on behalf of its affiliates and authorized users) consents to such Processing of personal information, including the transfer of such personal information outside of the Users’ jurisdiction, whether the initial collection of such personal information was: (a) from itself, from its affiliates and/or from the its authorized users directly; or (b) from network service providers or third parties with goods or services used with the BlackBerry Radar Solution. Further, Customer represents and warrants (on its behalf and on behalf of its affiliates and authorized users) that it has obtained (or its affiliate has obtained) all necessary consents to such Processing, including collection of each User’s personal information as required for the use of the BlackBerry Radar Solution, goods or services used with the BlackBerry Radar Solution and as contemplated in this Agreement.

12. **ENTIRE AGREEMENT.** This Agreement, along with the Order Form, together with the agreements specific to the Service contains the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior oral or written agreements or representations. In absence of an express acceptance of these terms, Customer acknowledges that it has agreed to this Agreement by acceptance or use of, or the payment for, the goods or services ordered hereunder (the “**BlackBerry Radar Solution**”). For clarity, any additional or variant Customer purchase terms are inapplicable unless pursuant to a subsequent written agreement executed by both parties. In the event of a conflict between this Agreement and the license agreements, service terms or other terms of use specific to the BlackBerry Radar Solution ordered, the terms and conditions specific to the BlackBerry Radar Solution ordered shall prevail solely as to the use of the applicable good or the provision and receipt of the applicable service.

13. **DELIVERY TERMS APPLICABLE TO HARDWARE, ACCESSORIES AND/OR OTHER PHYSICAL GOODS.** Customer acknowledges and agrees that: (a) any shipment dates specified are estimates only and are subject to change; (b) any delay in Customer providing BlackBerry with any required pre-payment or required information may impact BlackBerry’s ability to ship the physical goods by a particular date; and (c) Customer shall validate each shipment against attached packing slips

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for accuracy of items and quantities promptly upon receipt and notify BlackBerry immediately of any discrepancy between the attached packing slip and the shipment upon discovery of any nonconformity. Delivery shall be deemed complete and risk of loss shall pass to Customer at Customer's point of delivery. Unless otherwise stated on the Order Form, all standard shipping costs including, insurance, brokerage, and freight (but excluding duties) are the responsibility of BlackBerry.

### 14. MISCELLANEOUS

- a. BlackBerry and Customer both agree that their obligations under this Agreement shall be performed in accordance with all applicable federal, state, provincial and local laws, rules and regulations, including export control and anti-corruption laws.
- b. Each Device and any related items (including software, technology and technical information) sold, exported, transferred, supplied or licensed by BlackBerry may be subject to and governed by the laws of the United States and other countries, including but not limited to the US Export Administration Regulations (EAR) and US Foreign Assets Control Regulations (FACR). Customer is required to comply with all applicable laws relating to the export, re-export, transfer, use, or import of any Device or related items. Diversion contrary to applicable law is prohibited. Notwithstanding any other request or agreement to the contrary, Customer shall take or be required to take any action prohibited or penalized under US or applicable foreign law.
- c. BlackBerry shall in no event be liable for any failure or delay in performing its obligations under this Agreement, or for any loss or damage resulting therefrom, due to causes beyond its control, including but not limited to riots, suppliers, work stoppages, fires, or natural catastrophes.
- d. BlackBerry may assign this Agreement and Customer may assign this Agreement with BlackBerry's consent.
- e. To the extent any provision of this Agreement is determined to be invalid or unenforceable by a competent authority in any jurisdiction, then such determination will not affect the legality, validity or enforceability of the remaining parts of the Agreement.
- f. The provisions of this Agreement are personal to the respective Parties and are not intended to confer any rights of enforcement on any third party.
- g. Nothing in this agreement shall be deemed to create an agency or employment relationship between the Parties.