

This Hosting Services Agreement ("Agreement") is made and entered into on, _____ by Perceiva, Inc. an Virginia corporation with its principal place of business located at 5300 Palmer Lane, Suite 2A, Williamsburg, VA 23188 ("Perceiva") and _____ ("Customer" or "you"), a _____ with its principal place of business located at _____ (each a "Party" and collectively, the "Parties").

For Shared Hosting, Collaboration & Email Services

1.00 General

1.01 These Terms of Service govern the use of the Perceiva website, systems and services. The term "Perceiva" and "Licensee" is used to refer to Perceiva, Inc. The term "account" refers to the access, content, and services that Perceiva provides to its prospective customers, users and customers (also referred to as "Licensors").

1.02 By using the Perceiva Web Site, Hosting Services, any Support Services, any Perceiva software, or any other products or services of Perceiva, you agree to be bound by the terms of this Agreement. Perceiva reserves the right to change, amend and/or otherwise alter the Perceiva Services with equivalent or otherwise equal services without prior notice to you.

1.03 The terms contained herein supersede and replace any other agreement or negotiation between you and Perceiva, whether oral, written or otherwise, including any statements made to you by any representative of Perceiva at any time. Any amendments, changes, additions, deletions or other modifications of this Agreement are void unless specifically expressed in writing and agreed to by Perceiva.

1.04 Perceiva reserves the right to cancel any account, including files and content, for any reason, or no reason at all, at any time. You agree to maintain back-up files of all information you post on Perceiva and you agree that Perceiva will have no liability for removing any data you have posted.

1.05 Subscribers to Perceiva Services must be at least 18 years of age or require the approval of the minor's legal guardian.

2.00 Domain Names and Registration Services.

2.01 At your request, Perceiva may acquire a Second-Level Domain Name ("Domain Name"), on your behalf and in your name, assuming that the Domain Name you request is available for registration. Perceiva will not own or otherwise legally control any Domain Name registered on your behalf under this Section. Perceiva provides this service as a convenience to you only and you hereby waive any and all claims which you may have, or which may later arise, against Perceiva for any and all damages, losses, claims or expenses arising or related to the acquisition, registration and/or use of the Domain Name. Any costs incurred by Perceiva to obtain and/or maintain the Domain Name on your behalf shall be charged to you by Perceiva at an amount determined by Perceiva, at their sole discretion.

2.02 Before using a website under a domain name, Perceiva may list advertisements on the website for Perceiva Services or for the products and services offered by business partners of Perceiva or by other third parties.

2.03 Domain Names may be registered by Perceiva on your behalf through a variety of Domain Name Registration Services (each a "Registrar"). Each Registrar has its own terms and conditions concerning the registration and maintenance of domain names and you agree to be bound thereby. In particular, registration of Domain Names binds you to the terms of the Uniform Domain Name Dispute Resolution Policy ("UDRP"), which governs the resolution of most disputes regarding the registration of Domain Names.

2.04 You warrant to Perceiva that any Domain Name you may seek to register through Perceiva does not violate the rights of any third party, in particular trademark rights, and that you have taken reasonable steps, including but not limited to searches of the applicable state and federal trademark registries, to assure that this is the case. You agree to indemnify and hold harmless Perceiva, its officers, directors, employees and agents, with respect to any and all damages, losses, claims or expenses incurred with respect to or arising out of claims of third parties concerning your use of any such Domain Name on the Internet.

2.05 You agree to inform Perceiva of any proceeding instituted by any party challenging your rights to use any Domain Name hosted on Perceiva servers, including but not limited to disputes under the Uniform Domain Name Dispute Resolution Policy ("UDRP"). Should you for any reason lose your right to use a Domain Name hosted on the Perceiva Servers, through expiration of the registration of the Domain Name, judicial decree, and administrative decision under the UDRP or otherwise, you agree to immediately inform Perceiva of such loss of rights. To the extent your loss of rights to a Domain Name is accompanied by any judicial decree or

administrative decision granting rights to the Domain Name to a third party, you agree to immediately inform Perceiva in writing of the identity of the party to whom such rights are to be transferred, as well as of any other information regarding the nature and scope of the decision of the judicial body or administrative panel that rendered the decision.

2.06 You agree and understand that Perceiva may, should your rights to a Domain Name be challenged in any way, suspend the Perceiva Services associated with such Domain Name and take any other steps required under any such proceeding, including but not limited to actions required under the UDRP. In any such case, Perceiva will take every reasonable step to assure that no loss of data occurs as a result of such actions and Perceiva may make such data available to you for storage elsewhere.

3.00 Technical Support

3.01 Support for hosting plans are offered via Phone, Web, and e-mail. This support is offered 24 hours a day, seven (7) days a week. In the case of emergencies or natural disasters, Perceiva will provide support as soon as it is a reasonable time to do so.

4.00 Cancellations and Billing

4.01 Setup Fees are nonrefundable.

4.02 The initial term (the "Initial Term") shall be as set forth in the Order Form (also referred to as "Proposal", "Estimate", or "Order"). The Initial Term shall begin upon commencement of the Services to Customer. After the Initial Term, this Agreement shall automatically renew. Additionally, after the initial term, customer acknowledges, agree and authorize Perceiva to automatically bill and/or charge their credit card for successive terms of equal length as the initial term, unless terminated or cancelled by either party as provided in this section. After the Initial Term, this Agreement shall automatically renew at the current listed fee. A list of current fees are available on the Perceiva website.

4.03 Perceiva reserves the right to offer subsequent promotional rates which may or may not be more favorable than the terms under which you entered this agreement. Any such periodic special rates shall not affect the then existing right and responsibilities of each party. Promotional offers and rates may not be combined.

4.04 To the extent that you qualify for any promotional rates or special offers offered by Perceiva, these terms and conditions may be modified by the terms and conditions of the promotion or special offer. In such a case, the terms and conditions of the promotion, to the extent they differ from the terms and conditions expressed herein, govern.

4.05 Perceiva charges a non-refundable set up fee as well as its periodic service fee which in some cases may be refundable as further set forth elsewhere herein. Perceiva may also charge you for Domain Service Fees and specifically reserves the right to institute additional charges upon notice to you. Perceiva reserves the right to alter, change, amend or delete charges at its sole discretion. Perceiva further reserves the right to institute new services and charge fees in association with the provision of such new services as it deems appropriate.

4.06 Payment for all products and services is due in advance, unless specifically stated otherwise in the offer or promotion pursuant to which you have ordered or are ordering the Perceiva services. All payments shall be made in United States Dollars.

4.07 Payment by Credit Card: prior to activation of your user account and at any applicable time thereafter you authorize Perceiva to charge the credit card provided by you for the amount of the fee due for the agreed upon services, together with any applicable set-up charges, registration fees, or any other charges outlined herein as may be applicable. You further authorize Perceiva to charge your credit card for all subsequent period fees at, or a reasonable period in advance of, the commencement of any such subsequent period. Should you fail to provide credit card authorization to pay for the coverage, Perceiva, at its sole discretion will have the right to suspend your account and/or terminate it under Article 8 hereof. Refusal or rejection of any charge or any portion thereof is grounds for account suspension and/or termination at the sole option of Perceiva under Article 16 herein.

4.08 The Hosting Services may be terminated by the following methods:

- (a) by either party by giving the other party thirty (30) days prior written notice,
- (b) by Perceiva in the event of non-payment by Customer,
- (c) by Perceiva, at any time, without notice, if, in Perceiva's sole and absolute discretion and/or judgment, Customer is in violation of any term or condition of the this Agreement and related agreements, or Customer's use of the Services disrupts or, in Perceiva's sole and absolute discretion and/or judgment, could disrupt, Perceiva's business operations and/or

- (d) By Perceiva upon verbal request by Customer if Customer provides satisfactory authorization and account verification.
- (e) By Perceiva in accordance with other cancellation terms listed herein.
- 4.09 If a customer cancels their Hosting service prior to the end of the Initial Term or any Term thereafter:
- (a) customer shall be obligated to pay all fees and charges accrued prior to the effectiveness of such cancellation,
- (b) Refunds of Service fees will be made only for pre-payment of Service fees beyond the renewal date following the effective notice and termination of this agreement. All refunds shall be pro-rated based upon the number of days for which service remains unused as of that renewal date. Perceiva may grant refunds under any other circumstance it deems appropriate without waiving any other rights hereunder. There will be no refunds of Domain Service Fees. Fees paid for certain additional services, including but not limited to services for extra storage space, web mail tools or special groupware, are also not refundable. Pricing discounts offered by Perceiva for unmet terms, such as and not limited to 12 months of service, will be first deducted from any prospective Refund due to a customer.
- 4.10 If Perceiva cancels a customer's account prior to the end of the Term for the customer's breach of the Terms of Service and related agreements, the Customer's use of the Services disrupts, Perceiva shall not refund to customer any fees paid in advance of such cancellation and customer shall be obligated to pay all fees and charges accrued prior to the effectiveness of such cancellation; further, customer shall be obligated to pay 100% of all charges for all Services for each month remaining in the Term.
- 4.11 Upon termination of a customer's account for any cause or reason whatsoever, neither party shall have any further rights or obligations under these terms of service, except as expressly set forth herein. Termination of a hosting Agreement and retention of pre-paid fees and charges shall be in addition to, and not be in lieu of, any other legal or equitable rights or remedies to which Perceiva may be entitled.
- 4.12 Should a customer decide to cancel an account within the initial 90 day period, the customer will receive a refund of unused funds on the hosting fees, less any domain registration fees that Perceiva has occurred to date as part of a promotion or separate charges. Any upgrade of the initial account by customer within the initial 90 day period will be considered a waiver of the money back guarantee and an acceptance of the then current rates and fees.
- 5.00 Content
- 5.01 Perceiva reserves the right to access and review its user's content, files, or web pages for any reason at its sole discretion.
- 5.02 Perceiva does not preview the content of its users and therefore all user content is provided "AS IS" and without warranty of any kind by Perceiva.
- 5.03 Perceiva does not endorse any content contained within its user's pages.
- 5.04 Perceiva will cooperate with all law enforcement efforts pertaining or involving the use of Perceiva's user's web space and content. This may result in Perceiva disclosing all information given to Perceiva including but not limited to information contained in Perceiva's customer database records.
- 6.00 Inappropriate Content
- 6.01 Transmission, distribution, sale or storage of any material in violation of any applicable law, regulation, ordinances, or these guidelines is prohibited. Perceiva reserves the rights to restrict or prohibit any and all uses of the Services or content on your Web site(s) and to remove such material from its servers that Perceiva determines in its sole discretion is harmful to its servers, systems, network, reputations, good will, other Perceiva Customers, or any third party. The following non-exhaustive list details the kinds of illegal or harmful or misappropriates conduct that is prohibited.
- 6.02 Perceiva does not permit any of the following types of content:
- (a) nudity, pornography, anything of a sexual, lewd, indecent or of obscene nature.
- (b) violations of any copyright or any other right of any third party, including, without limitation, material protected copyright, trademark, patent, trade secret, or other intellectual property right used without proper authorization.
- (c) threatening, abusive, harassing, harmful, defamatory, invasive of privacy or publicity rights, abusive, inflammatory or otherwise objectionable.
- (d) promotion of illegal activities (info on hacking, cracking, making illegal devices, etc).
- (e) information, instructions, or software containing or about any kind of virus.
- (f) hate speech or hate propaganda.
- (g) content that links to content that violates Perceiva's Terms of Service in any way.
- (h) misrepresentation of user's identity, or the impersonation of anyone,

- including Perceiva personnel.
- (i) collection of personal information for illegal purposes.
- (j) content that is deemed by Perceiva, in its sole discretion, to be harmful to Perceiva, another company or organization, or individual.
- (k) solicitation or sale of any products or services that is harmful, illegal, dangerous, pornographic, or indecent.
- (l) use of web space for spamming, bulk mail, web bombing, etc.
- 7.00 Export Violations and CISG
- 7.01 Perceiva does not permit the posting or sending of software or technical information in violation of U.S. export laws, including, without limitation, the Export Administration Act and the Export Administration Regulations maintained by the Department of Commerce.
- 7.02 The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply to this agreement.
- 8.00 Harmful Content
- 8.01 Perceiva does not permit disseminating or hosting harmful content including, without limitation, viruses, Trojan horses, worms, time bombs, cancelbots or any other computer programming routines that may damage, interfere with, surreptitiously intercept or expropriate any system, program, data or personal information.
- 9.00 Fraudulent Conduct
- 9.01 Perceiva does not permit offering or disseminating fraudulent goods, services, schemes, or promotions (i.e., make money fast schemes, chain letters, pyramid schemes), or furnishing false data on any signup form, contract or online application or registration, or the fraudulent use of any information obtained through the use of the Services, including without limitation use of credit card numbers.
- 9.02 You agree not to make or attempt any unauthorized access to any Perceiva website or the website of any Perceiva customer.
- 10.00 Security Violations
- 10.01 Violations of Perceiva's or any third party's server, system or network security through the use of the Services are prohibited, and may result in criminal and civil liability. Perceiva may investigate incidents involving such violations. Perceiva may involve and cooperate with law enforcement if a criminal violation is suspected. Examples of server, system or network security violations include, without limitation, the following:
- 10.02 Hacking. Perceiva does not permit unauthorized access to or use of data, systems, server or networks, including any attempt to probe, scan or test the vulnerability of a system, server or network or to breach security or authentication measures without express authorization of the owner of the system, server or network.
- 10.03 Interception. Perceiva does not permit unauthorized monitoring of data or traffic on any network, server, or system without express authorization of the owner of the system, server, or network.
- 10.04 Intentional Interference. Perceiva does not permit interference with service to any user, host or network including, without limitation, mail bombing, news bombing, other flooding techniques, deliberate attempts to overload a system, broadcast attacks and any activity resulting in the crash of a host. Intentional interference also means the use of any kind of program/script/command, or sends messages of any kind, designed to interfere with a user's terminal session, via any means, locally or by the Internet.
- 10.05 Falsification of Origin. Perceiva does not permit forging of any TCP-IP packet header, e-mail header or any part of a message header.
- 10.06 Avoiding System Restrictions. Perceiva does not permit using manual or electronic means to avoid any use limitations placed on the Services such as timing out.
- 10.07 Failure to Safeguard Accounts. If Customer fails to prevent access to its accounts, including any account passwords, Customer's service may be subject to immediate cancellation or suspension as allowed herein.
- 11.00 Disallowed File Types
- 11.01 Perceiva does not permit the following file types: .cmd, and .bat.
- 12.00 User Name Restrictions
- 12.01 Perceiva user name restrictions are as follows:
- (a) No vulgar or offensive language.
- (b) No use of a name other than your own.
- (c) No use of a name that is an organization or entity other than your own.
- (d) No use of a name that is trademarked, copyrighted, service marked, or violates the rights of another individual or organization.
- 13.00 Account Usage
- 13.01 Customer's selection of unlimited data transfer from their Web Site, excludes transfer from any database server, RealMedia server, or other audio/video streaming servers. Customers may pay additional bandwidth fees

for database server or RealMedia, or other audio/video streaming server transfers that exceed 10 GB, in the aggregate, during any calendar month. Customer agrees to design their websites in such a manner as to avoid overloading of Perceiva Servers, by limiting the use of code/applications that require overly high processor capacity, and to use good judgment to provide a website that is designed in a technically competent manner. Perceiva has the right, should the customer's website be the cause of interruptions in Perceiva's ability to provide its services to other customers, to temporarily disable access to the customer's website. In case Perceiva takes such a step, the customer will be informed thereof as soon as is practicable and Perceiva may work with customer to remove the condition that led to the suspension.

13.02 To protect the legitimate Internet use of our Customers across our system, Customers may not:

(a) Use the Web site to store Web pages, files or data for other IP addresses or domain names, or as a repository for files, data or "Ware group" download transfer.

(c) Offer adult content. Perceiva may immediately suspend service without notice to any Web site that violates these rules in manner that adversely affects the operations or performance of other Perceiva customers.

13.03 In the event of any dispute regarding these rules, Perceiva may determine violations of these rules in its sole discretion. Customers utilizing bandwidth in excess of plan limitations, or in violation of these rules, will pay Perceiva the applicable rate for excess bandwidth.

13.04 Customers utilizing bandwidth, disk space or SQL usage in excess of current plan limitations, or in violation of these rules, will be subject to additional fees for the applicable rate for the excess bandwidth, disk space or SQL space.

13.05 You agree not to collect or attempt to collect personally identifiable information of any person or entity without their express written consent and you shall maintain records of any such written consent throughout the terms of this agreement and for three years thereafter.

14.00 E-mail Communication

14.01 Perceiva users agree to:

(a) Maintain a current email address in the Perceiva database. Failure to notify Perceiva of an e-mail change could result in the termination of your Perceiva account.

(b) Receive updates, offers, notifications and newsletters in email as Perceiva decides to send them.

(c) Check all of their email accounts in regular intervals and to download the email stored therein in order to maintain an acceptable data-transfer volume. Perceiva may, should the capacity of your email boxes be exceeded at any time, return all subsequently received emails to the senders without notice to the customer.

14.03 You may not use Perceiva's mail server or another Web site's mail server to relay mail without the express permission of the account holder or the Web site. Posting the same or similar message to one or more newsgroups (excessive cross-posting or multiple-posting) also is explicitly prohibited.

15.00 SPAM/Bulk Mail Policy

15.01 Perceiva users agree not to distribute, publish, or send any of the following types of e-mail:

(a) Unsolicited promotions, advertising or solicitations (commonly referred to as "spam"), including, without limitation, commercial advertising and informational announcements, except to those who have explicitly requested such e-mails.

(b) Harassing e-mail, whether through language, frequency, or size of messages.

(c) Chain letters.

(d) UCE (Unsolicited Commercial E-mail), Bulk E-mail, advertising or solicitations (commonly referred to as "spam"). Perceiva reserves the right to decide what it considers "spam", "UCE", "mail bombing", or "bulk e-mail", and to determine from all of the evidence whether or not the e-mail recipients were from an "opt-in" e-mail list. Further, you agree to indemnify and hold us harmless from any claim resulting from your use or distribution of electronic mail services through the service provided through this Agreement. Anyone using our services for spamming will be immediately subject to a \$250 cleanup/network abuse fee.

(e) Unsolicited postings to newsgroups advertising any URL (domain) hosted by Perceiva.

(f) Promoting any software program, product, or service that facilitates the use of spam/bulk mail.

(g) E-mails containing forged or falsified information in the header (including sender name and routing information), or any other forged or falsified

information.

15.02 Malicious e-mail, including without limitation "mail-bombing" (flooding a user or Web site with very large or numerous pieces of mail) or "trolling" (posting outrageous messages to generate numerous responses).

15.03 In addition, you may not use Perceiva's mail server or another Web site's mail server to relay mail without the express permission of the account holder or the Web site. Posting the same or similar message to one or more newsgroups (excessive cross-posting or multiple-posting) also is explicitly prohibited.

16.00 Termination of Service

16.01 A partial list of the actions that may cause termination of account:

(a) Purposely circumventing the receiving of emails.

(b) Posting or providing links to content that violates these Terms of Service.

(c) Using an account that is not yours or is inactive.

(d) Sending unsolicited (bulk, spam) email from or referencing your space.

(e) Reproduction or use of another user's content without permission.

(f) Reproduction of any Perceiva.com content (Code Bank, Forum Messages, Articles).

(g) Invalid e-mail address for correspondence with Perceiva.

16.02 INDIRECT OR ATTEMPTED VIOLATIONS OF THESE TERMS, AND ACTUAL OR ATTEMPTED VIOLATIONS BY A THIRD PARTY ON YOUR BEHALF, WILL BE CONSIDERED VIOLATIONS OF THE TERMS OF SERVICE BY YOU.

17.00 OWNERSHIP OF INTELLECTUAL PROPERTY; CONFIDENTIALITY

17.01 It is understood and agreed that during the term of this agreement and thereafter you may come into possession of information which is the confidential and proprietary information of Perceiva including but not limited to the Perceiva customer service tools. You acknowledge that all right and title to any such Perceiva intellectual property shall remain the sole property of Perceiva and that you have no right, title or interest therein. You further agree not to provide access to the Perceiva services to any third party. Any and all right or title to any engineering, coding, programming or customer service work around or other modification of the Perceiva Services shall also remain the sole property or Perceiva.

17.02 During the term of this agreement you may have access to certain information and materials relating to the Perceiva business, customers, software technology and marketing which Perceiva treats as confidential (hereinafter "Confidential Information"). You agree to at all times during the term of this agreement and otherwise as set forth herein: (i) hold in confidence, and not disclose or reveal to any person or entity, any "Confidential Information" without the express prior written consent of Perceiva; and (ii) not use or disclose any of the "Confidential Information" for any purpose at any time, other than pursuant to your rights under this agreement for the purpose intended. These obligations shall continue indefinitely for so long as the Confidential Information is a trade secret under applicable law and shall continue for three (3) years following termination of this Agreement with respect to Confidential Information, which does not rise to the level of a trade secret.

17.03 For purposes of this Article 17, Confidential Information also includes passwords and access codes.

18.00 Limitations of Liability

18.01 PERCEIVA IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. PERCEIVA EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. 18.02 PERCEIVA MAKES NO WARRANTY THAT (i) PERCEIVA WILL MEET YOUR REQUIREMENTS OR THAT, (ii) PERCEIVA WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF PERCEIVA IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Perceiva SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN HEREIN. YOU EXPRESSLY UNDERSTAND AND AGREE THAT PERCEIVA SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF



PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF Perceiva HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM:
 (i) THE USE OR THE INABILITY TO USE THE SERVICE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM Perceiva; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (iv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR (v) ANY OTHER MATTER RELATING TO THE SERVICE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

18.03 You agree to indemnify and hold Perceiva, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of any information or data you post on Perceiva your use of Perceiva, your violation of these Terms of Service, or your violation of any rights of another.

18.04 These Terms of Service constitute the entire agreement between you and Perceiva and govern your use of Perceiva, superseding any prior agreements between you and Perceiva. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content or third-party software. These Terms of Service and the relationship between you and Perceiva shall be governed by the laws of the State of Virginia. You and Perceiva agree to submit to the personal and exclusive jurisdiction of the courts located within the State of Wisconsin. The failure of Perceiva to exercise or enforce any right or provision of these Terms of Service shall not constitute a waiver of such right or provision.

19.0 Severability. If any provision of these Terms of Service is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Service remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or these Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever barred.

20.00 Licensing Agreement

This Agreement does not permit Customer or any third party to: (i) sublicense, rent, lease, sell, offer to sell, distribute, or otherwise transfer rights to the Network Software; (ii) distribute the Network Source Code or derivative works thereof; (iii) copy the Network Software (other than as expressly provided herein); (iv) remove any proprietary markings, copyright, notices, logos, trademarks, trade names or labels on the Network Software and/or Documentation; provided, however, that Customer may replace the Zimbra logo in the Client Side Software with Customer's logo but only for use with the Network Software; (v) use the embedded database software as a general SQL server, as a stand-alone database or with applications other than the Network Software; (vi) use the Server Side Software on any computer not controlled by the Licensee; (vii) allow any third party, other than Licensee's End Users to use the Network Software; or (viii) produce a derivative work of the Network Source Code that does not include or in any way disables the Critical Control Software.

A. Only a personal, non-transferable, and non-exclusive license to use the Licensee Service for such Customer's internal business via the Client Side Software. Customer may not use the Network Software to provide more Seats than the number for which Customer is licensed.

B. Zimbra, as Licensee's licensor, retains all right, title and interest, including any Intellectual Property Rights, in and to the Network Software and all portions thereof, and no title to the Network Software, or any Intellectual Property Rights in the Network Software, is transferred to such Customer.

C. The Customer shall comply with all applicable laws for the Network Software, including without limitation, export and re-export restrictions and regulations of the Department of Commerce or other United States agency or authority.

D. LICENSEE AND ITS LICENSORS DISCLAIM, AND EXCLUDE ALL WARRANTIES WITH RESPECT TO THE NETWORK SOFTWARE AND THE THIRD-PARTY SOFTWARE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT

LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE NETWORK SOFTWARE AND THE THIRD-PARTY SOFTWARE ARE PROVIDED "AS-IS" AND LICENSEE AND ITS LICENSORS DO NOT WARRANT THAT THE NETWORK SOFTWARE OR THE THIRD-PARTY SOFTWARE WILL MEET ANY OR ALL OF CUSTOMER'S NEEDS OR REQUIREMENTS, THAT THE NETWORK SOFTWARE IS ERROR-FREE OR THAT ALL ERRORS IN THE NETWORK SOFTWARE WILL BE CORRECTED OR THAT THE FUNCTIONALITY OF THE NETWORK SOFTWARE WILL BE UNINTERRUPTED. E. LICENSEE'S LICENSORS SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR INDIRECT DAMAGES, RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST SAVINGS, OR DAMAGES ARISING FROM LOSS OF USE, LOSS OF CONTENT OR LOSS OF DATA, REGARDLESS OF THE LEGAL THEORY ON WHICH SUCH DAMAGES MAY BE BASED, AND EVEN IF LICENSEE'S LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY SET FORTH IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. F. IN NO EVENT SHALL LICENSEE'S LICENSORS BE LIABLE FOR ANY DIRECT DAMAGES.

This Agreement and all Attachments shall be subject to Virginia law and enforceable in the courts of James City County, Virginia and all matters pertaining here to shall be heard there. All parties hereby consent to the jurisdiction of such courts in any action regardless of the residence of such party. Customer hereby acknowledges that he or she has reviewed the terms and conditions in this Agreement and each of the Attachments referred to herein, and Perceiva and Customer have caused their duly authorized representatives to execute the Agreement on and as of the date first set forth below. This Agreement may be executed (by original or faxed signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.

USE OF PERCEIVA SERVICES CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS.

**FAX TO (757) 847-5542
 ATTN: CONTRACTS**

Customer:

 Signature:

Name:

Title:

Date:

Perceiva, Inc.

 Signature:

Name:

Title:

Date: