

JCSL Attachment C

ATTACHMENT C - INTERNAL DEPLOYMENT USE

This Attachment C is only effective for the Technology specified in Attachment B and includes the requirement to pay royalties. Attachment D describes how you can reduce or pay no royalties by becoming a Contributor of the Technology. In the event of a conflict between the terms of this Attachment C and Attachment D, the terms of Attachment C shall govern.

1. **Effect.** This Attachment C is to the JAFS Collaborative Source License for JAFS FTP servers engine in its current version as published on the JCSL Webpage ("JCSL"). You have agreed to the terms of the JCSL by selecting the "Accept" button at the end of the JCSL or executing a hardcopy JCSL with Original Contributor. The terms of the JCSL (including the Glossary of terms) are included in this Attachment unless otherwise excluded or varied. You acknowledge that the JCSL is binding on You. This Attachment C is effective only if signed by You and Original Contributor or one of the authorized resellers, and applies to Your Internal Deployment Use of Community Code and the Technology. All capitalized terms used herein shall have the same meaning set forth in the JCSL, unless otherwise stated.

2. **Term.** Upon execution of this Attachment C by You and Original Contributor, this Internal Deployment Use license shall have a perpetual term.

3. **Internal Deployment Grant.** Subject to Your compliance with Section 4 below, and Section 8.10 of the Research and Development Use license; in addition to the Research and Development Use license and in consideration of clause 7 below, Original Contributor grants to You a worldwide, non-exclusive license, to the extent of Original Contributor's Intellectual Property Rights covering the Original Code, Upgraded Code and Specifications, to do the following:

a) reproduce and modify the Original Code, Upgraded Code and Specifications to create Modifications and Reformatted Specifications for Internal Deployment Use by You,

b) compile, reproduce and distribute Original Code and Upgraded Code with, or as part of Modifications, in Executable form, through multiple tiers of distribution without infringing section 7 of this attachment.

c) reproduce and distribute Reformatted Specifications for Internal Deployment Use.

d) use the Technology without infringing section 7 of this attachment.

Other than the licenses expressly granted in this License, Original Contributor retains all right, title, and interest in Original Code and Upgraded Code and Specifications. The license may only discriminate by purpose of execution. The Technology must be available for use by anyone, subject to the payment of the appropriate fee.

4. Additional Requirements and Responsibilities. In addition to the requirements and responsibilities specified in the Research and Development Use license, and as a condition to exercising the rights granted in Section 3 above, You agree to the following additional requirements and responsibilities:

a) **Field of Use.** This License is only for desktop or server use of the Technology and shall be limited to the use described in Section 7 below. For other purposes, You should contact Original Contributor for the appropriate license agreement.

b) **Distribution of Source Code.** Source Code of a Derivative Work may be distributed only to another Licensee of the same Technology.

5. Indemnity/Limitation of Liability. The provisions of Section 7.1 of the Research and Development Use license are superseded by the following:

a) **Your Indemnity Obligation.** You hereby agree to defend, at Your expense, any legal proceeding brought against Original Contributor or any Licensee to the extent it is based on a claim: (i) that the use, reproduction or distribution of any of Your Error Corrections or Shared Modifications is an infringement of a third party trade secret or a copyright in a country that is a signatory to the Bern Convention; (ii) arising in connection with any representation, warranty, support, indemnity, liability or other license terms You may offer in connection with any Derivative Work; or (iii) arising from Your Commercial Use of Derivative Work, other than a claim covered by Section 5.b) below, or a patent claim based solely on Derivative Work not provided by You. You will pay all damages, costs and fees awarded by a court of competent jurisdiction, or such settlement amount negotiated by You, attributable to such claim.

b) **Original Contributor's Indemnity Obligation.** Original Contributor will defend, at its expense, any legal proceeding brought against You, to the extent it is based on a claim that Your authorized Use of Original Code and Upgraded Code is an infringement of a third party trade secret or a copyright in a country that is a signatory to the Berne Convention. The foregoing shall not apply to any claims of intellectual property infringement based upon the combination of code or documentation supplied by Original Contributor with code, technology or documentation from other sources. NOTWITHSTANDING ANY OF THE ABOVE, the total amount of Original Contributor's liability SHALL BE LIMITED TO ONE HUNDRED PERCENT (100%) OF THE AMOUNT HAVING THEN ACTUALLY BEEN PAID BY YOU TO ORIGINAL CONTRIBUTOR FOR ALL COPIES LICENSED

HEREUNDER OF THE PARTICULAR ITEMS GIVING RISE TO SUCH CLAIM, IF ANY.

c) **Right of Intervention.** Original Contributor will have the right, but not the obligation, to defend You, at Original Contributor's expense, in connection with a claim that Your Use of Original Code and Upgraded Code is an infringement of a third party patent and will, if Original Contributor chooses to defend You, pay all damages, costs and fees awarded by a court of competent jurisdiction, or such settlement amount negotiated by Original Contributor, attributable to such claim.

d) **Prerequisites.** Under Sections 5.a), b) and c) above, Original Contributor or any Licensee must: (i) provide notice of the claim promptly to the party providing an indemnity; (ii) give the indemnifying party sole control of the defence and settlement of the claim; (iii) provide the indemnifying party, at indemnifying party's expense, all available information, assistance and authority to defend; and (iv) not have compromised or settled such claim or proceeding without the indemnifying party's prior written consent.

e) **Additional Remedies.** Should any Original Code, Upgraded Code, Specifications, or Shared Modifications become, or in the indemnifying party's opinion be likely to become, the subject of a claim of infringement for which indemnity is provided above, the indemnifying party may, at its sole option, attempt to procure on reasonable terms the rights necessary for the indemnified party to exercise its license rights under this License with respect to the infringing items, or to modify the infringing items so that they are no longer infringing without substantially impairing their function or performance. If the indemnifying party is unable to do the foregoing after reasonable efforts and subject to the limitation of liability, then the indemnifying party may send a notice of such inability to the indemnified party together with a refund of any license fees received by the indemnifying party from the indemnified party for the infringing items applicable to the indemnified party's future use or distribution of such infringing items, in which case the indemnifying party will again not be liable for any damages resulting from infringing activity with respect to the infringing items occurring after such notice and refund.

6. Support Programs.

a) **Support to You.** Technical support is not provided to You by Original Contributor under this License. You may contract for one or more support programs from Original Contributor or from third party partners relating to the Technology which are described on the SBBI Web Server.

b) **User Support.** You are responsible for providing technical and maintenance support services to Your users of the Technology.

7. Royalties and Payments.

Technology specified in Attachment B. The details of your license royalties and payment schedule are available in your JAFS License Summary page. The fee for a particular version may only be increased in line with general price inflation in the currency used to pay the fee.

8. **Notice of Breach or Infringement.** Each party shall notify the other immediately in writing when it becomes aware of any breach or violation of the terms of this License, or when You become aware of any potential or actual infringement by a third party of the Technology or Original Contributor's Intellectual Property Rights therein.

9. **Proprietary Rights Notices.** You may not remove any copyright notices, trademark notices or other proprietary legends of Original Contributor or its suppliers contained on or in the Original Code, Upgraded Code and Specifications.

10. **Notices.** All written notices required by this License must be delivered in person or by means evidenced by a delivery receipt and will be effective upon receipt by the persons at the addresses specified below (Signatures Section).

11. **Disclaimer of Agency.** The relationship created hereby is that of licensor and licensee and the parties hereby acknowledge and agree that nothing herein shall be deemed to constitute You as a franchisee or agent of Original Contributor. You hereby waive the benefit of any state or federal statutes dealing with the establishment and regulation of franchises.

12. **Confidentiality.** You shall keep and maintain in confidence the terms and conditions of this Attachment C.