

Non Exclusive Dealer Agreement

Dealer



Unit 6, Hurlingham Business Park, Sullivan Road, LONDON, SW6 3DU

RT SOFTWARE LIMITED

NON-EXCLUSIVE DEALER AGREEMENT

DATE :

Parties

RT SOFTWARE LIMITED, a company registered in England under company number 05021140, whose registered office is at 3 Acorn Business Centre, Northarbour Road, Cosham, PORTSMOUTH, PO6 3TH, United Kingdom and whose primary trading address is Unit 6, Hurlingham Business Park, Sullivan Road, LONDON, SW6 3DU, United Kingdom, phone number +44 (0)20 7384 2711 (**RTSW**)

and

[INSERT FULL CORPORATE TITLE], a company registered in, or formed under the laws of *[insert country]*, under number *[insert number]*, whose registered office or principal place of business is at *[insert address of registered office (if in UK) or principal place of business (overseas)]*, telephone number *[insert telephone number]* (**the Dealer**)

RT Software statement of Dealer Capability

A Dealer is expected to have an in depth knowledge of RT Software Products and be able to carry out pre-sales activity, such as pre-qualifying leads and promotion of RT Software Products. They are expected to be able to respond to support calls, and provide First Line Support to End Users

1. Definitions

1.1 In this agreement the following expressions have the meaning set opposite:

This Agreement	This document, including its Schedule as amended from time to time in accordance with Clause 18.1.
The Charges	The price payable per licence of the Software and the other charges and fees set out in the Schedule.
A Clause	A clause in this Agreement.
The Commencement Date	The Commencement Date set out in the Schedule.
Consultancy Services	Advice and assistance from RTSW in connection with the Software or in connection with the Dealer's provision of Professional Services, or both.
Control	The power, directly or indirectly, to direct or cause the direction of the management of an undertaking, regardless of whether through the ownership of shares, by contract, or in any other way and "Controls" and "Controlled" are to be interpreted accordingly
A Current Licence Agreement	An End User Licence that has not expired or been terminated.
A Demonstration Copy	A copy of the Software supplied by RTSW solely to the Dealer for the purpose of demonstrating the Software to potential End Users
A Dongle	A Software Licence Key or other device that allows the Software to be used
An End User Licence	RTSW's standard form of end user licence agreement for the Software from time to time (a copy of which is available from RTSW)
An End User	A third party who has been permitted, under an End User Licence, to use the Software for its own internal purposes (as opposed to reselling, distributing or supplying the Software)

The Equipment	Servers, client workstations, PCs, communications and other systems that comply with the minimum requirements recommended by RTSW from time to time
An Error	A failure of the Software, when properly used on the Equipment, to function substantially in accordance with the User Documentation as a result of an error in the coding of the Software.
An Error Correction	A modification, update, patch or fix to the Software or avoidance or remedial advice provided by RTSW for the purpose of correcting or avoiding the recurrence of an error
First-Line Support	The support to be provided by the Dealer to End Users who have a current Licence Agreement, as described in the Schedule.
Intellectual Property Rights	Any patent, copyright, trademark, trade name, service mark, registered design, design right (registered and unregistered), know-how, right of confidence, trade secret, right to extract or exploit data, database rights, any similar rights protected in any jurisdiction, whether now existing or coming into existence at some future date, any application for any of the above, and any accrued rights of action in respect of any of the above.
The Marketing Materials	Any promotional materials, product, datasheets, advertising, brochures and press releases that RTSW may supply to the Dealer from time to time
The Minimum Period	The minimum period set out in the Schedule
Moral Rights	All rights under Chapter IV of the Copyright, Design and Patents Act 1988 and all other moral or author's rights existing in any jurisdiction
The Payment Terms	The payment terms set out in the Schedule
The Price List	RTSW's current price list for the Software and services as amended from time to time.

Professional Services	The installation of the Software and training in the use of the Software.
The Schedule	The Schedule to this Agreement
The Service Levels	The service levels set out in the Schedule
Service Hours	0900 - 1730 (UK Time), Monday to Friday, excluding Public and Bank Holidays.
The Software	The Software (in object code) listed in the Schedule and any Error Corrections and Updates issued by RTSW to the Dealer from time to time.
The Support Services	The Support Services to be provided by RTSW for the Software as set out in the Schedule
The Technical Documentation	Any technical documentation and specifications (in hard copy or electronic form) relating to the Software that RTSW may provide to the Dealer from time to time.
The Territory	The geographic area specified in the Schedule
The Trade Marks	The Trademarks, names and logos of RTSW, whether used individually or collectively, and whether registered or unregistered, listed in the Schedule, and all other trademarks that RTSW uses in connection with the Software from time to time
An Update	Any updated or modified version of the Software, but not any new version of the Software that contains additional functionality
The User Documentation	Any operating manuals and other literature (in hard copy or electronic form) that RTSW may provide to the Dealer from time to time relating to the Software for use by the End Users in conjunction with the Software
A Working Day	A day (except a Saturday or Sunday) on which the clearing banks in the City of London are open for business

A Year of the Agreement	12 months beginning on the Commencement Date or on any anniversary of that date
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1.2 Any reference in this Agreement to a statute or regulation is to be construed as a reference to that statute or regulation as amended or re-enacted from time to time.

1.3 The Interpretation Act 1978 applies to this Agreement as if this Agreement were an enactment.

1.4 The headings in this Agreement are for ease of reference only; they do not affect its interpretation or construction.

2. The Dealer's Rights

2.1 RTSW appoints the Dealer, and the Dealer accepts the appointment, as a non-exclusive Dealer of the Software in the Territory. RTSW may itself market, distribute and licence the Software and may provide support and maintenance services, consultancy and other services to users of the Software in the Territory, and may appoint one or more parties to market, distribute and licence and provide such services, or act as RTSW's agent for the marketing, distribution and licensing of the Software and the provision of such services in the Territory.

2.2 The Dealer warrants to RTSW that the Dealer has, and throughout the term of this Agreement will have, the ability and experience to carry out its obligations under this Agreement, and that by virtue of entering into this Agreement and performing it, the Dealer is not, and will not be, in breach of any express or implied obligation to any third party.

2.3 The Dealer may not appoint any Dealer, agent, dealer or distributor for the Software and may not sub-contract to any person the provision of First Line Support and Professional Services to End Users or any of the Dealers obligations under this Agreement.

3. Duration

3.1 This Agreement will continue in force for the Minimum Period. After the end of the Minimum Period it will continue automatically until it is terminated on the expiry of not less than 3 months written notice given by either party to the other (that notice to expire at any time) or until this Agreement is terminated earlier under Clause 11

3.2 RTSW may discontinue developing, producing, licensing or distributing all or any of the Software and/or any services in relation to the Software, and may modify, update and issue new releases and new versions of the Software and Error Corrections, at its discretion at any time.

4. Supply and Payment

4.1 The Software is a dongle protected runtime package. The Dealer will order the licences of the Software from RTSW by means of ordering a Dongle for each copy of the Software for

which the Dealer has an order from an End User in the Territory.

4.2 Each order will be an offer to buy the number of licences of the Software on that order. A contract for the sale of the right to grant those licences of the Software to End Users will come into existence only when RTSW notifies the Dealer in writing that RTSW accepts the Dealer's order. RTSW accepts the right not to accept any order, as it sees fit, without giving any reason.

4.3 Orders placed by the Dealer purporting to include any terms or conditions except those contained in this Agreement, or to vary the terms of this Agreement, will not be valid unless those other terms and conditions are expressly accepted by RTSW in writing.

4.4 The price payable by the Dealer to RTSW for each licence of the Software will be that in the Price List when RTSW accepts the Dealer's order, less any discount calculated in accordance with the Schedule.

4.5 The Charges are exclusive of Value Added Tax and all other taxes and duties. The Dealer will pay Value Added Tax in accordance with United Kingdom legislation in force at the tax point and all other taxes and duties payable in connection with the supply of the Software and any Dongle to the Dealer and its export and import into the Territory. The Dealer will also pay the cost of shipping and insurance. If RTSW incurs any costs or expense on the Dealer's behalf in respect of handling, packaging, carriage, insurance or other matters relating to the supply or delivery of the Software or any Dongle, those costs and expenses will be payable by the Dealer on demand in accordance with the Payment Terms.

4.6 The Dealer is free to set its own prices for End Users of the Software and for services supplied by the Dealer to End Users (but the Dealer acknowledges that RTSW or RTSW's other Dealers, agents, dealers and distributors may supply the Software and/or such services in the Territory at a price that may be more, or less, than the price charged by the Dealer).

4.7 The Dealer will pay RTSW the Charges in accordance with the Payment Terms. The charges for each licence of the Software will be payable as soon as RTSW accepts the Manufacturer's order for a licence for a licence of the Software. Other Charges will be payable as set out in the Schedule.

4.8 Any delivery dates are approximate only and RTSW will not be liable if any delivery date is not met.

4.9 RTSW may make partial deliveries of copies of the Dongles and may invoice the Dealer even though the whole order has not been delivered. RTSW will not be liable for any shortfalls in delivery unless the Dealer notifies them to RTSW within 7 days after delivery.

4.10 If the Dealer fails to make any full payment of any amount to RTSW when due, without prejudice to any other right or remedy available to RTSW:

4.10.1 RTSW may withhold, suspend, or delay delivery of all or any of: the Dongle under all or any orders, the supply of Updates and Error Corrections to the Dealer; or the supply of any services

4.10.2 The entire balance outstanding under all invoices from RTSW to the Dealer will become immediately due and payable to RTSW without further demand; and

4.10.3 The Dealer will pay interest on any overdue sum and the costs of recovery in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Where the Late Payment of Commercial Debts (Interest) Act 1998 would not normally apply, interest on any overdue sum will be calculated on the same basis.

4.11 The Dealer may not withhold any payment to RTSW by reason of any claim against RTSW, nor claim any right of set off.

4.12 Risk in the Dongles will pass to the Dealer when they leave RTSW's premises. Title to the Dongles will pass to the Dealer when the Dealer has paid, in full, for that Dongle. If the Dealer obtains possession of the Dongle before it has been paid for in full for that copy, the Dealer will

4.12.1 Keep the Dongle separate from any other goods and products and clearly Identified as the property of RTSW

4.12.2 Take proper care of the Dongle, storing it in accordance with any requirements made known to the Dealer by RTSW

4.12.3 Not sell, or part with possession of the Dongle except for supplying it to an End User in accordance with this Agreement.

4.12.4 Not create any mortgage, lien or any other charge over the Dongle

4.13 The Dealer's failure to pay the full amount in respect of any Dongle or Licence when due will RTSW the right (without prejudice to any other rights or remedies it may have) to repossess that copy of the Dongle (and to enter the Dealer's premises for that purpose if necessary, with or without notice)

4.14 Except as provided for in Clause 9, all Dongles and copies of the Software supplied to, or downloaded by, the Dealer are for supply to End Users

5. The Dealer's Obligations

During the term of this Agreement, and in the case of Clause 5.7 and Clause 5.8, until the expiry of the period specified in that Clause after the termination of this Agreement, the Dealer will at all time observe and perform the terms and conditions of this Agreement and, in particular, the Dealer will:

5.1 Use its best endeavours to promote and market the Software and to make the maximum sales of copies of the Software throughout the Territory.

5.2 Ensure that its employees are adequately trained and have sufficient expertise to demonstrate and market the Software to potential End Users throughout the Territory.

5.3 Act with reasonable skill and care, diligently, ethically, in good faith and in the best interests of RTSW in connection with the promotion, marketing, and support of the Software, the provision of First Line Support to End Users, and cultivating and maintaining good relations with End Users and prospective End Users.

- 5.4 Promptly inform RTSW of any facts or opinions of which the Dealer becomes aware and which are likely to be relevant in relation to the commercial exploitation of the Software, whether advantageous or disadvantageous to the interests of RTSW.
- 5.5 Conduct its business in a manner that will reflect favourably on the Software and on the good name and reputation of RTSW.
- 5.6 Not by itself, or with others, participate in any illegal, deceptive, misleading or unethical practices, including, but not limited to, disparagement of the Software or RTSW, or engage in other practices which may be detrimental to the Software or RTSW.
- 5.7 Not Applicable
- 5.8 Not Applicable
- 5.9 Provide First Line Support to End Users in the Territory who have a current Licence and employ a sufficient number of staff who are capable of providing First Line Support to End Users so that high quality First Line Support is provided to End Users who have a Current Licence and that support complies with any commitment made by the Dealer to End Users and at least meets the Service Levels.
- 5.10 Not Applicable
- 5.11 Not Applicable.
- 5.12 Inform RTSW promptly of
- 5.12.1 All Errors reported by any End User and of each complaint relating to the Software, and of all complaints and all “after sales” enquiries about the Software received by the Dealer and of each complaint relating to the Software.
- 5.12.2 All matters that come to the Dealers notice and that are likely to be relevant in relation to the manufacture, licensing, use or development of the Software.
- 5.13 Not Applicable
- 5.14 Employ a sufficient number of suitably skilled and qualified administrative, technical and support personnel to enable the Dealer to perform its obligations under this Agreement to RTSW’s reasonable satisfaction.
- 5.15 Not Applicable
- 5.16 Not make any promises or representations, or give warranties, guarantees or indemnities in respect of the Software except those contained in the End User Licence, or as otherwise expressly authorised by RTSW in writing. Further, the Dealer will not supply a copy of the Software of the Software to anyone if the Dealer knows that the Software does not meet the End User's requirements.

- 5.17 Not make any reference to RTSW or to the Software in any literature, advertising or promotional material or any other publication (including the Dealer's website) without first obtaining RTSW's written approval of the form and context of the reference.
- 5.18 Pay its own promotion, advertising, sales and marketing costs
- 5.19 Not Applicable
- 5.20 Use the Trademarks only in the form or style notified to the Dealer in writing by RTSW from time to time, only in connection with the marketing of the Software, and not in connection with any other products or services or as part of the corporate or any trade name of the Dealer or anyone else.
- 5.21 Not register or use an internet domain name which includes all or any part of the Trademarks, or the name of the Software
- 5.22 Not Applicable
- 5.23 Procure that each End User agrees to, and is bound by, the End User Licence and will not, in any way, modify or amend the End User Licence
- 5.24 Carry out "pre-sales" activities, including qualifying prospective End Users for the Software, conducting demonstrations and preparing quotations and proposals for submission to prospective End Users
- 5.25 Keep RTSW informed about enquiries received by the Dealer from prospective End Users and keep copies of all proposals or similar documents issued to prospective End Users and all correspondence with End Users or potential End Users about the End User Licence for inspection by RTSW on request.
- 5.26 Not Applicable
- 5.27 Comply with all local laws and regulations relating to the method of packaging, labelling, sale and licensing of the Software in the Territory, and the registration of this Agreement and the registration of any rights granted to the Dealer under it.
- 5.28 Keep RTSW fully and properly advised of all changes in laws and regulations in the Territory that might affect RTSW's business or the licensing of the Software to End Users in the Territory, and obtain all necessary export and import licences relating to the export of the Software from the United Kingdom and their import into the Territory.
- 5.29 Ensure that where, at the Dealer's request, RTSW gives a specific extra discount to the Dealer for a specific End User or class of End Users, that End User or those End Users receive the full amount of that discount.
- 5.30 Not solicit orders for the Software from End Users outside the Territory without first obtaining RTSW's written consent.

5.31 Clearly indicate to all prospective End Users and to all End Users that the Dealer is acting on their own account, not as an agent of RTSW and has no authority to agree any change to the End User Licence. If a prospective End User requests a change to the End User Licence, the Dealer will promptly forward that request to RTSW. RTSW may, in its sole discretion, agree with the prospective End User or notify the Dealer that RTSW is not prepared to negotiate or agree any change.

5.32 Not Applicable

5.33 Supply to RTSW on request, a copy of any prospective End User's purchase order and/or a copy of the Dealer's invoice to an End User or prospective End User.

5.34 Submit an order for a licence of the Software and a Dongle to RTSW promptly following receipt of an order from each prospective End User, and in no event later than 7 days following receipt of that order or the date of the Dealer's invoice to the End User.

5.35 When submitting any order for a licence of the Software, inform RTSW of the full contact details of the End User.

5.36 Not duplicate or reproduce any of the Software in any form without first obtaining written consent from a Director of RTSW. If RTSW agrees to that duplication or reproduction the Dealer will duplicate and reproduce the Software only in accordance with the written instructions and guidelines supplied by RTSW to the Dealer from time to time. The Dealer is to seek written consent from RTSW on every occasion that the Dealer wishes to reproduce or duplicate the Software.

5.37 Not Applicable

5.38 Permit RTSW and its authorised agents at all reasonable times to enter any of the Dealers premises, or any part thereof, for the purpose of ascertaining that the Dealer is complying with this Agreement. (The Dealer now irrevocably licences RTSW, its employees and agents to enter any of those premises for that purpose)

5.39 Not sell or distribute copies of the Software for use in, or association with, safety critical applications such as, without limitation, medical systems, transport management systems or vehicle and power generation applications

5.40 Not incorporate or integrate any of the Software in or with any hardware or other software

6. RTSW's Obligations

RTSW will

6.1 Make available to the Dealer any materials and any information, know-how and documentation, in English, and training as in each case RTSW considers requisite from time to time to assist the Dealer to market, distribute, sell and support copies of the Software and to provide Professional Services and First-Line Support in accordance with this Agreement in the Territory.

6.2 Provide the Support Services

6.3 If the Dealer requires a visit by RTSW to the Dealers offices, and End Users premises or elsewhere in the Territory, make reasonable efforts to meet that request, provided that RTSW may make a charge for the time spent and the expenses incurred in connection with that visit in accordance with RTSWs standard scale of charges in force at the time. The Dealer will pay those charges and expenses within 30 days after the date of RTSWs invoice for the same.

6.4 Where separately agreed in writing between RTSW and the Dealer, provide Consultancy Services to the Dealer.

7. Intellectual Property Rights

7.1 RTSW grants to the Dealer a non-exclusive licence to

7.1.1 Translate the Marketing Materials and Use Documentation into the local languages(s) of the Territory

7.1.2 To distribute copies of the translated Marketing Materials in the Territory

7.1.3 To Supply copies of the translated User Documentation to End Users in the Territory

7.1.4 Incorporate extracts from the User Documentation in Training Materials

7.2 The Dealer will not use or publish any such translation until that translation has been approved in writing by RTSW. Despite any approval given by RTSW, the Dealer will withdraw any translation from use and circulation immediately on receipt of a request from RTSW to do so.

7.3 The Dealer now assigns RTSW with full title guarantee all Intellectual Property Rights in translation of the Marketing Materials and in the User Documentation made by the Dealer. If the Dealer commissions a third party to make that translation, the Dealer will either acquire the Intellectual Property Rights so that it is able to assign them to RTSW or will procure that the translator and their employer assign all Intellectual Property Rights in the translation to RTSW with full title guarantee. The Dealer will also ensure that the translator waives all Moral Rights in relation to the translation of the Marketing Materials and User Documentation.

7.4 RTSW grants to the Dealer the non-exclusive right to copy and use the Technical Documentation solely for use by the Dealers staff involved in providing First-Line Support and Professional Services to End Users, but not for distribution to any End User or any other third party.

7.5 The Dealer acknowledges that all Intellectual Property Rights in Software, in the Marketing Materials, in the Trademarks, in the User Documentation and in the Technical Documentation, as between the Dealer and RTSW, are and will remain the property of RTSW.

7.6 RTSW grants the Dealer the non-exclusive right to use, and the Dealer will use, the Trademarks on all literature, advertising, promotional material and other publications, including the Dealer's Website, used by the Dealer and which refer to the Software, provided the Dealer:

7.6.1 Includes acknowledgement of the proprietary rights of RTSW

7.6.2 Complies with any guidelines that RTSW issues on the use of Trademarks from time to time

7.6.3 Complies with Clause 7.7

7.7 The Dealer will not register any Intellectual Property Rights relating to the Software or the Trademarks and the Dealer will provide RTSW with any reasonable assistance that RTSW requires in registering any Intellectual Property Rights in the Territory.

7.8 The Dealer will:

7.8.1 Not supply the Software to anyone or allow anyone to access the Software by means of an online service unless that person has entered into a binding End User Licence

7.8.2 Not supply or allow access to Error Correction or any Update, nor provide any First-Line Support or Professional Services to anyone unless that person has a Current Licence Agreement

7.8.3 On the Expiry of any End User Licence without Renewal, use all reasonable endeavours to ensure that the End User returns the Software to the Dealer and deletes all copies of it from the End Users Systems

7.8.4 On RTSWs request, terminate any End User Licence where that has been a material breach or persistent breaches of that End User Licence by the End User.

7.8.5 Not use or copy the Software, User Documentation, Technical Documentation, Trademarks or the Marketing Materials except as permitted in this Clause 7.

7.8.6 Report promptly to RTSW any third party claim relating to the Intellectual Property Rights in the Software or any associated documentation, or in the Trademarks that comes to the Dealers attention, and co-operate with RTSW in any enforcement or other protective action taken by RTSW to protect or defend its

Intellectual Property Rights or any such claim

7.8.7 Report any breach or suspected breach of any End User Licence by any End User to RTSW as soon as possible after the Dealer becomes aware of it, and co-operate with RTSW in any enforcement or other protective action taken by RTSW to protect or defend its Intellectual Property Rights.

8. Confidentiality

8.1 The Dealer will keep confidential, and not use for any purpose except exercising their rights and performing its obligations under this Agreement, the Technical Documentation and information relating to the Software, any information about RTSW's business, its financial affairs, its methodologies, strategies, plans, technology or its customers of licensees. The Dealer will notify RTSW immediately if the Dealer becomes aware of any unauthorised use of any of that information or of the Software by anyone.

8.2 The Dealer will not, without first obtaining RTSW's written consent, disclose any of the materials, documents or information protected by Clause 8.1 to anyone except:

8.2.1 The Dealer's employees and then only to those who need to know or to have access to them in order to comply with the Dealer's obligations under this agreement

8.2.2 The Dealer's auditors, any authorised Office of HMRC and any other person having a right, duty or obligation to know the Dealer's business, but then only in pursuance of that right, duty or obligation.

8.3 The Dealer will ensure that any person to whom Clause 8.2.2 refers are made aware, before disclosure to them of any materials, documents or information protected by Clause 8.1, that it is confidential and that they have a duty of confidence to RTSW. The Dealer will then indemnify RTSW against all loss and damage which RTSW may sustain or incur as a result of the Dealer or its employees and anyone else who has access to any of the materials, documents or information protected by Clause 8.1 through the Dealer failing to comply with the provisions of this Clause 8.

8.4 The Dealer will immediately notify RTSW if the Dealer becomes aware of any breach of confidence by anyone to whom the Dealer discloses any of the materials, documents or information protected by Clause 8.1, and the Dealer will give RTSW all assistance reasonably required by RTSW in connection with any action or proceedings which RTSW may institute against that person for breach of confidence.

8.5 The Dealer will effect and maintain adequate security measures to safeguard the materials, documents and information protected by Clause 8.1 from access or use by any unauthorised person and will retain them and all copies of them under the Dealer's control. The Dealer is to keep a full and accurate record of the Dealer's copying of them, and will produce that record to RTSW from time to time on demand.

8.6 The provisions of Clause 8.1 do not apply to any information which is in, or comes into, the public domain, unless as a result of a breach of this Clause 8.

9. Demonstration Copies

9.1 RTSW will provide the Reseller, free of charge, with 1 (One) RTU Demonstration Copy, which shall be Watermarked and which shall be timed to terminate on the date that this Agreement terminates. The Reseller will not resell or supply that copy to any third party. If the Reseller wishes to acquire additional Demonstration Copies, it may request these from RTSW and RTSW, if it considers it reasonably necessary for the Reseller to have those extra Demonstration Copies, supply them to the Reseller at the price of £1000 plus VAT for each additional copy. Additional copies for Demonstration purposes will also be Watermarked and set to timeout on the date of termination of this Agreement.

9.2 The Dealer may use the Demonstration Copies only to demonstrate the Software to any bona fide prospective End User.

10. Termination

10.1 Either party may terminate this Agreement immediately on giving notice in writing to the other if:

10.1.1 The other commits any breach of this Agreement and, in the case of a breach which is capable of being remedied, it has failed to remedy it within 30 days after receiving notice requiring it to remedy the breach

10.1.2 The other has a Receiver or Administrative Receiver appointed over it or over any part of its undertaking or assets, or it passes a resolution for winding-up, except for the purpose of a bona fide scheme of solvent amalgamation or reconstruction, or if a Court of competent jurisdiction makes an order to that effect, or if it becomes subject to an Administration Order, or if it enters into any voluntary arrangement with its Creditors, or if any similar process to any of the above is begun in any jurisdiction, or if it ceases, or threatens to cease, to carry on business.

10.2 RTSW may terminate this Agreement with immediate effect by giving notice to the Dealer at any time after becoming aware that there has been a change of Control of the Dealer, or that there has been a change of organisation, methods of control or management of the Dealer which RTSW reasonably considers will affect, or has affected, the ability of the Dealer to perform its obligations under this Agreement.

10.3 RTSW will terminate this Agreement with immediate effect, and without notice after becoming aware that there has been a change of Control of the Dealer, or that there has been a change of organisation, methods of control or management of the Dealer and that the new Controlling entity is a direct competitor to RTSW

10.4 RTSW may suspend its performance of this Agreement if any of the circumstances mentioned in Clause 10.1 or 10.2 arises in relation to the Dealer. That suspension will not prejudice RTSW's rights to later terminate this Agreement, either for the same or a different reason.

11. Effects Of Termination

11.1 On the termination of this agreement:

11.1.1 Any order placed by the Dealer and accepted by RTSW which has not been fulfilled at the date of termination will be completed on the same terms and conditions as if this Agreement were still in force. This will be subject to payment being received by RTSW for all outstanding monies due to RTSW and in respect of all unfilled orders, before delivery is made.

11.1.2 The Dealer may fulfil all orders for the Software received by them before the date of termination and may honour their legal obligations to provide First-Line Support and Professional Services to the End Users

11.1.3 Subject to Clauses 11.1.1 and 11.1.2, the Dealers right to market, distribute and license the Software will immediately and automatically terminate.

11.1.4 No End User licence entered into by an End User before the termination of this agreement will be affected.

11.1.5 Subject to Clauses 11.1.1 and 11.1.2, the Dealer will immediately return to RTSW all copies of the Software in the Dealers possession or control, erase all copies of the Software from any computer system in its possession or control, and will certify to RTSW in writing that it has been done.

11.1.6 The Dealer will immediately remove from its website all content that refers to RTSW or the Software

11.1.7 The Dealer will cease to make any reference to RTSW or the Software and will cease using the Trademarks in its promotional materials and will cease holding itself out as a Dealer of RTSW or of the Software.

11.1.8 The Dealer will, if required in writing by RTSW, return to RTSW all Demonstration Copies, User Documentation, Technical Documentation, Copies of the Software not yet supplied to End Users, all Dongles and all Marketing Materials and all other literature and other materials supplied to the Dealer by, or for, RTSW.

11.2 Any termination of this Agreement, however it happens, will not affect any accrued rights or liabilities by either party, nor will it affect the coming into force or the continuance of force of any provision of this Agreement which is expressly, or by implication, intended to come into or to continue in force on or after termination.

11.3 Clauses 4.5, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 5.38, 7, 8, 11, 12, 14, 15, 16, 17 and 18 will survive the termination of this Agreement and continue indefinitely. Clauses 5.7 and 5.8 will survive the termination of this Agreement but will only continue for the duration set out in those Clauses.

12. Partnership and Third Parties

12.1 Nothing in this Agreement creates, evidences or implies any partnership or joint venture between the parties, or the relationship between them of principal and agent.

12.2 No third party is entitled to the benefit of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

13. Assignment

13.1 The Dealer may not assign, or transfer, or sub-contract this Agreement or any of its rights or obligations under it, whether in whole or in part, without first obtaining RTSWs written consent.

14. No Compensation on Termination

14.1 The termination of this Agreement by either party in accordance with its terms will not give the Dealer any right to compensation or damages for loss of profits or prospective profits, loss of business or potential business or loss of its appointment. In no circumstances will the Dealer acquire any goodwill in relation to RTSWs business, its appointment by RTSW or in respect of the Software or its distribution or licensing in the Territory, or otherwise under, or in respect, of this Agreement.

15. Indemnity

15.1 The Dealer will indemnify and keep RTSW fully and effectively indemnified on demand from and against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which RTSW may suffer or incur, or which may be brought or established against it by any person, and which in any case arises out of, or in relation to, or by reason of:

15.1.1 Any breach by the Dealer or by its employees or the Dealers obligations under this Agreement.

15.1.2 Any unauthorised act or omission of the Dealer or its employees

15.1.3 The manner in which the Dealer markets the Software of any services related to it.

15.1.4 The supply by the Dealer of any products, software or services for use in conjunction with, or in relation to, the Software.

15.1.5 If translated by, or for the Dealer, the manner in which the Marketing Materials or the User Manual, or both, are translated.

15.1.6 Any claim made against RTSW by an End User as a result of RTSW exercising its rights under Clause 4.10.

16. Warranties and Liability

16.1 The Dealer acknowledges that the Software is complex and that the Software may have certain defects when delivered. The Dealer agrees that RTSW's sole liability, and the Dealer's sole remedy if there is any bug, fault or error in any copy of the Software is to accept the return of that copy if rejected by the End User in accordance with the End User Licence and to refund the Dealer the price paid by the Dealer to RTSW for the licence of that copy.

16.2 Without prejudice to Clause 16.1, but subject to Clauses 16.3 and 16.5, RTSW's total liability to the Dealer, whether in contract, tort, including negligence, otherwise will:

16.2.1 In relation to any claim by an End User in respect of any defect, error, bug or deficiency in the Software, not exceed the price paid by the Dealer to RTSW for the licence for that End User.

16.2.2 In aggregate, in respect of all claims arising in a Year of this Agreement, in connection with the Software and RTSW's performance or non-performance of this Agreement, and whether in contract, or tort (including negligence) or arising in any other way, not exceed the total Charges paid by the Dealer to RTSW in that Year of this Agreement

16.3 Despite anything else contained in this Agreement (except Clause 16.6), RTSW will not be liable to the Dealer for any loss of profits, loss of savings, loss of use, loss of business, loss of opportunity, loss or spoiling of data, loss of contracts, in any case whether direct or indirect, or for any indirect or consequential loss, whether arising from negligence, or breach of contract, or in any other way, even if RTSW had been advised of, or knew of, the likelihood of that loss or type of loss arising.

16.4 Because of the uncertainty of future events and circumstance, RTSW does not guarantee that its forecasts, projections, advice, recommendations or the contents of any report, presentation or other document will be achievable, and the Dealer acknowledges that RTSW gives the same to address specific circumstances at the time. All information which RTSW supplies is supplied in good faith, but the accuracy and completeness of any information obtained from, or based on, information obtained from the Dealer, End User or any third party is not warranted by RTSW. It is not within the scope of RTSW's obligations to enquire as to, or verify the accuracy or completeness of that information.

16.5 The Dealer acknowledges that the limitations of and exclusions on RTSW's liability in this Agreement are reasonable in the light of RTSW's insurance arrangements and that RTSW is willing to accept a higher limitation on its liability providing it is able to obtain full insurance cover for its liabilities and the Dealer pays the costs of obtaining and maintaining any increased cover.

16.6 Nothing in this Agreement limits or excludes RTSW's liability for death or personal injury caused by its negligence or for fraud.

16.7 The Software has been developed for use with the Equipment. RTSW will not be liable for any failure of the Software to operate with any hardware, software or operating system except the Equipment or for any degradation in performance or reduction in functionality

caused by the use of the Software with any other equipment, software or operating system.

16.8 RTSW will not be liable under any warranty or any other provision of this Agreement to the extent that any failure of the Software to comply with any warranty, or to the extent that any error, defect, bug or deficiency in the Software, or RTSWs failure to correct or delay in correcting it results from the Dealer having not complied with its obligations under this Agreement, or from any other act or omission on on the Dealers part, or on the part of any third party. In particular, RTSW will not be liable if any modification has been made to any of the Software by anyone except RTSW.

16.9 RTSW will not be liable under the warranty of under any other provision of this Agreement to the extent that any loss or damage is caused by the Dealer's failure to implement or distribute, the Dealers delay in implementing or distributing any Error Correction or Update that would have remedied or mitigated the effects of any Error, defect, bug or deficiency in the Software.

16.10 Because of the nature of the Software, RTSW does not warrant that the Software will be error free or that it will run without interruption, or that every error, defect, bug or deficiency can be, or will be corrected.

16.11 The express undertakings and warranties given by RTSW in this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations on the part of RTSW implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are, to the extent permitted by law, excluded.

16.12 The Dealer warrants that it has not been induced to enter into this Agreement by any representation or by any warranty (either oral, or in writing) except those specifically wet out in this Agreement as warranties. The Dealer waives all claims for breach of any warranty and all claims for any misrepresentation (negligent or of any other kind, unless made by RTSW fraudulently) which is not specifically set out in this Agreement as a warranty.

17. Notices

17.1 All notices to be given under this Agreement must be in writing and be sent to the address of the intended recipient set out in this Agreement or any other address which the intended recipient may designate by notice given in accordance with the provisions of this Clause 17. Any notice may be delivered personally, or by first class prepaid letter, or by e-mail, and will be deemed to have been served as follows:

17.1.1 If delivered by hand, when delivered.

17.1.2 If sent by first class post, 48 hours after posting

17.1.3 If sent by e-mail, upon receipt of a Delivery Receipt, or where after a period of 24 hours, no failed delivery message has been received.

18. General

18.1 This agreement supersedes all earlier agreements, arrangements and understandings between the parties in respect of the subject matter, and constitutes the complete agreement between them relating to that subject matter, No addition to, or modification of, any provision of this Agreement will be binding on either party unless recorded in writing and signed by a duly authorised representative of each of them.

18.2 Except as stated to the contrary in this Agreement, no right, power or remedy conferred on, reserved to, either party is exclusive of any other right, power or remedy available to it, and each of those rights, powers, and remedies is cumulative.

18.3 No failure or delay by either party in enforcing its rights under this Agreement, or at law or in equity will prejudice or restrict those rights. No waiver of any right will operate as a waiver of any other or later right or breach.

18.4 If any part of this Agreement is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement will not be affected

18.5 Further assurance

18.5.1 Each party will do, execute and perform such further acts, things, deeds and documents as may from time to time be required to give full legal and practical effect to this Agreement.

18.5.2 Each party will use all reasonable endeavours as its own cost to ensure that any necessary third parties do, execute and perform such further acts, things, documents and deeds as may from time to time be required to give full legal and practical effect to this Agreement.

18.6 Despite anything else contained in this Agreement, RTSW will not be liable for any delay in performing or failure to perform its obligations caused by circumstances beyond its control (including, without limitation, any act of omission on the Dealer's or any End User's part or on the part of any third party, and any bug, defect, error, fault or deficiency in any software or data not provided by RTSW or developed by or on behalf of the Dealer or any End User, or in any equipment), and RTSW will be granted a reasonable extension time for the performance of its obligations.

18.7 The Dealer may not assign, or transfer, or subcontract this agreement or any of its rights (including sub-licensing the right to distribute the Software) or any of the Dealer's obligations under this Agreement, whether in whole or in part, without first obtaining written consent from a duly authorised representative of RTSW.

19. Force Majeure

19.1 Neither party shall be liable to the other to perform any obligation under this Agreement which is due to an event beyond the control of such party including, but not limited to, act of God, war, insurrection, riot, civil unrest, act of civil or military authority

19.2 Any party affected by such event shall forthwith inform the party of the same in writing and shall use all reasonable endeavours to comply with the terms of this Agreement. Where such event(s) renders performance impossible for a continuous period of not less than 6 months, the other party shall be entitled to terminate this Agreement by serving one months notice.

20. Law and Jurisdiction

20.1 This Agreement and its validity are governed by, and this Agreement is to be construed in accordance with the laws of England & Wales. The Dealer acknowledges this and agrees to submit to the jurisdiction of the Courts of England & Wales or any other Court of RTSWs choosing. Where the Dealer is outside of the jurisdiction of the Courts of England & Wales, the Dealer's address for service in England & Wales is set out in the Schedule.

Signed By

Name:

Position:

Duly authorised for, and on behalf of, the Dealer

Signed By

Name:

Position:

Duly authorised for, and on behalf of, RT Software Ltd

THE SCHEDULE

The Software

All RT Software Ltd Products as promoted on the website and being freely available, and in each case any later release or version supplied by RTSW to the Dealer.

The Commencement Date

Insert Date

The Minimum Period

*** year(s) beginning on the commencement date

The Territory

List all countries and areas included in the agreement

First Line Support

The provision of a telephone help desks during the hours of 0900 - 1700 (Mon to Fri, excluding Bank Holidays in England & Wales), manned by trained technical staff to resolve issues raised by End Users in connection with the Software.

The provision of e-mail support provided under the same provisions as the telephone help desk, with e-mails accepted out of hours but dealt with during the hours as per those mentioned with the telephone help desk.

Telephone : +44 (0)20 7384 9277
EMail : support@rtsw.co.uk

Support Services (supplied by RTSW)

- a) The provision of a telephone help desk during Service Hours to receive reports of Errors in the Software from the Dealer.
- b) The use of reasonable endeavours to analyse reports of Errors in the Software and to provide Error Corrections to the Dealer, either in a modification to or a new release or version of the Software, at RTSW's discretion
- c) The provision of Updates to the Dealer.

The Charges

- a) The price payable per licence of the Software set out in the Price List when RTSW accepts the Dealer's order less the discount set out below.
- b) In return for the Support Services, and annual support charge as set out in the Price List less the discount set out below, payable when RTSW accepts the Dealer's order and on each anniversary of that date.
- c) In return for Consultancy Service, charges set out in the Price List less the discount set out below or, if no charges appear in the Price List, RTSW's standard charges applicable at the date of the invoice, payable monthly.

Invoices

RTSW will forward Invoices to the Dealer via EMail. The Dealer is to ensure that RTSW is made aware of the correct EMail to send Invoices to.

The Payment Terms

The Dealer will pay RTSW in Pounds Sterling, unless otherwise agreed, by direct transfer to RTSW's nominated bank account and that all payment must be received within 30 days after the date of RTSW's invoice except as stated to the contrary elsewhere in this agreement.

The Dealer is responsible for any and all charges in relation to currency exchange and transfers, where applicable.

The Discounts

These discounts are against the RT Software Main Price List in force at the time and are as follows:

- a) Twenty (20%) percent as shown:
 - Each case of an indefinite (perpetual) licence of any of the Software sold to an End User by the Dealer
 - Each case of a Right to Use Licence, and any renewal thereof, of any of the Software sold to an End User by the Dealer.
 - Each case of the Annual Support Charge, and any renewal thereof, for each copy of any of the Software supported by the Dealer.
 - Each case of the charges for Consultancy and/or Training as contained in the Price List.
 - Each case of the charges for Services Work as contained in the Price List.
- c) Ten (10%) percent as shown:
 - Each case of any Hardware supplied by RT Software

d) There is no discount associated with any of the following and the Dealer will be charged at the full price as per the Price List:

- Remote Software Installation of any Sports Professional Product.
- Any additional Demo or replacement “Dongle”.
- Any charges for Travel Days to a Clients site.
- Any charges for recharged expenses due to travel to a clients site.
- Any miscellaneous administration charges
- Any carriage costs.

The Trade Marks

RT Software corporate and product logos

Dealers address for service in England