

Non Exclusive Reseller Agreement

Agent



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

RT SOFTWARE LIMITED

NON-EXCLUSIVE AGENT 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 Reseller**)

RT Software statement of Agent Capability

An Agent does not necessarily have any responsibilities to RT Software, indeed they can be no more than a door opener. They are not expected to hold stock, be able to demonstrate or provide support for RT Software Products. An Agent is, however, expected to have a knowledge of RT Software Products and the target market.

Headings

1. Definitions
 2. Appointment
 3. RTSW's Obligations
 4. Agents Obligations
 5. Orders
 6. Commission
 7. Confidentiality
 8. Termination
 9. Effects on Termination
 10. No Compensation on Termination
 11. Partnership and Third Parties
 12. Assignment
 13. Force Majeure
 14. Indemnity
 15. Notices
 16. General
 17. Law and Jurisdiction
- Schedule

1. Definitions

1.1 In this Agreement, the following terms shall have the following meanings

This Agreement	This document, including its Schedule as amended from time to time in accordance with Clause ***
The Business	The Promotion and sale of the Products and/or Services by the Agent on half of RT Software in the Territory and all related matters.
Confidential Information	All information that may be imparted in confidence or be of a confidential nature relating to the business, prospective business, plans or internal affairs of RT Software.
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)
Intellectual Property	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 Price List	RTSW's current price list for the Software and services as amended from time to time.
The Products	Goods, as defined in the Sales of Goods Act 1979, if any, described in Clause *****
The Products and/or Services	RT Software's Software Products and Services as set out in the Price List, but excluding Hardware.
RTSW	RT Software Limited
The Schedule	The Schedule to this Agreement.
The Term	Means the period of the Term from the Start Date and ending on the Expiry Date.
The Territory	The geographic area specified in the Schedule.

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. Appointment

2.1 RTSW appoints the Agent for the Term as a Non Exclusive Agent for RTSW for the sale for the Products and/or Services in the Territory.

2.2 The Agent shall solicit and obtain orders for the Products and/or Services on the behalf of RTSW in accordance with the prices specified in the Price List.

2.3 RTSW reserves the right to vary the specification and/or the price of the Products and/or Services and to withdraw products and/or services from and/or add Products and/or Services to the range of Products and/or Services.

2.4 RTSW reserves the right to sell direct to customers and to appoint other Agents, Dealers or Resellers in the Territory.

3. RTSWs Obligations

Throughout the Term, RTSW agrees with the Agent to:

3.1 Act dutifully and in good faith

3.2 To inform the Agent within a reasonable period of the acceptance or refusal or, and of any non execution by it, a commercial transaction the Agent has procured.

3.3 To supply the Products and/or Services (subject to availability) in accordance with orders obtained by the Agent and to ensure that such Products and/or Services:

3.3.1 Comply with the relevant governmental or other regulations in the Territory.

3.3.2 Are of merchantable quality and conform to sample

3.3.3 Are invoiced at the current price list or other pricing policy of RTSW as notified to the Agent.

3.3.4 Are delivered promptly

3.3.5 Are sold in accordance with the Usual Business Terms and Conditions of RTSW

3.4 To support the Agent in promoting and advertising the Products and/or Services in the Territory in such a manner as it considers appropriate and to supply the Agent with sufficient instruction manuals, samples, technical and marketing information and brochures as necessary.

3.5 To notify the Agent of any change to its Price List.

3.6 To provide and promptly update information about the Products and/or Services and specifically to notify the Agent of any variations in the specification of the Products and/or Services or any changes to the range of Products and/or Services.

3.7 To provide End Users with an adequate after sales service by providing assistance in relation to servicing, maintenance, repair or replacement of the Products.

3.8 To provide End Users with a guarantee against defects in the manufacture or installation of the Products.

4. Agent's Obligations

Throughout the Term, the Agent agrees with RTSW:

4.1 To use all reasonable commercial efforts to obtain orders for the Products and/or Services in the Territory.

4.2 To protect and promote the interests of RTSW and to act dutifully and in good faith.

4.3 Not to be concerned or interested either directly or indirectly in the supply of Products and/or Services which are similar or competitive with the Products and/or Services.

4.4 Not to sell directly or indirectly the Products and/or Services outside the Territory without first obtaining written agreement from RTSW.

4.5 Not to pledge the credit of RTSW.

4.6 Not to make any representations, warranties or guarantees to End Users in respect of the Products and/or Services except where specifically authorised by RTSW.

4.7 Not to use the Intellectual Property of RTSW otherwise than in accordance with this Agreement.

4.8 To inform RTSW of any improper or wrongful use in the Territory of the Intellectual Property of RTSW and not to cause or permit anything which may damage or endanger such Intellectual Property.

4.9 To maintain proper sales reports in relation to the sale of Products and/or Services and to supply to RTSW from time to time upon request, sales reports and other information relating to the Business and to comply with all reasonable instructions given by RTSW.

4.10 To comply with all applicable laws and requirements of any governmental or regulatory authority applicable to the Business.

4.11 That any services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.

4.12 Not make any reference to RTSW or to the Products and/or Services in any literature, advertising or promotional material or any other publication (including the Agents's website) without first obtaining RTSW's written approval of the form and context of the reference.

4.13 Use the Trademarks only in the form or style notified to the Agent in writing by RTSW from time to time, only in connection with the marketing and distribution of the Products and/or Services, and not in connection with any other products or services or as part of the corporate or any trade name of the Agent or anyone else.

4.14 Not register or use an internet domain name which includes all or any part of the Trademarks, or the name of the Products and/or Services

4.15 The Agent may not appoint any reseller, agent, dealer or distributor for the Products and/or Services and may not sub-contract to any person any of the Agent's obligations under this Agreement.

5. Orders

5.1 Any orders received for the Products and/or Services by the Agent shall be passed to RTSW who shall supply the Products and/or Services direct to the End User together with an invoice which shall be payable to RTSW. Duplicate copies of all invoices shall be provided to the Agent.

5.2 RTSW shall have the right to refuse any order on any grounds but shall advise the Agent, in writing, within fourteen (14) days of receipt of an order of its acceptance or non-acceptance.

6. Commission

6.1 The Agent shall be paid commission by RTSW in accordance with the Schedule for each sale procured by the Agent within the Territory during the Term. No commission shall be payable in respect of order not accepted by RTSW.

6.2 The Agent shall be paid commission by RTSW 15 days after all monies due to RTSW have been paid by the End User.

6.3 RTSW will provide the Agent with a Commission Statement on a quarterly basis once trading has commenced and provided there has been trading in that period.

6.4 Commission payments will be paid exclusive of VAT.

6.5 If the Agent negotiates with an End User generated by an ex-Agent to whom RTSW continues to be liable for Commission, the Agent shall be entitled to 50% of the commission due as per the Schedule.

6.6 If RTSW deals directly or through another Agent with an End User generated by the Agent under this Agreement, or the Agent negotiates with an End User generated by another Agent of RTSW, the Agent shall be entitled to 50% of the commission due as per the Schedule.

7. Confidentiality

7.1 The Reseller 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 Reseller will notify RTSW immediately if the Reseller becomes aware of any unauthorised use of any of that information or of the Software by anyone.

7.2 The Reseller will not, without first obtaining RTSW's written consent, disclose any of the materials, documents or information protected by Clause 7.1 to anyone except:

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

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

7.3 The Reseller will ensure that any person to whom Clause 7.2.2 refers are made aware, before disclosure to them of any materials, documents or information protected by Clause 7.1, that it is confidential and that they have a duty of confidence to RTSW. The Reseller will then indemnify RTSW against all loss and damage which RTSW may sustain or incur as a result of the Reseller or its employees and anyone else who has access to any of the materials, documents or information protected by Clause 7.1 through the Reseller failing to comply with the provisions of this Clause 7.

7.4 The reseller will immediately notify RTSW if the Reseller becomes aware of any breach of confidence by anyone to whom the Reseller discloses any of the materials, documents or information protected by Clause 7.1, and the Reseller 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.

7.5 The Reseller will effect and maintain adequate security measures to safeguard the materials, documents and information protected by Clause 7.1 from access or use by any unauthorised person and will retain them and all copies of them under the Reseller's control. The Reseller is to keep a full and accurate record of the Reseller's copying of them, and will produce that record to RTSW from time to time on demand.

7.6 The provisions of Clause 7.1 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 7.

8. Termination

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

8.1.1 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

8.1.2 The other has a Receiver or Administrative Receiver appointed over it or over any part of its undertaking of 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.

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

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

8.3 RTSW may suspend its performance of this Agreement if any of the circumstances mentioned in Clause 8.1 or 8.2 arises in relation to the Reseller. That suspension will not prejudice RTSW's rights to later terminate this Agreement, either for the same or a different reason.

9. Effects Of Termination

On the termination of this agreement:

9.1 The Agent will be entitled to commission in respect of orders obtained by it and transmitted to RTSW before the date of termination and not in respect of orders transmitted to RTSW after that date, irrespective of when the End User placed an order with the Agent.

9.2 The Agent's right to market RTSW and its Products and/or Services will immediately and automatically terminate.

9.3 The Reseller will immediately remove from its website all content that refers to RTSW and/or the Products and/or Services

9.4 The Reseller will cease to make any reference to RTSW or the Products and/or Services and will cease using the Trademarks in its promotional materials and will cease holding itself out as a reseller of RTSW or of the Products and/or Services.

9.5 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.

9.6 The Reseller will, if required in writing by RTSW, return to RTSW all Documentation, other literature and other materials supplied to the Agent by, or for, RTSW.

9.6 Clauses 1, 4.7 4.13, 4.14, 7, 9.2, 9.3, 9.4 will survive the termination of this Agreement and continue indefinitely.

10. No Compensation on Termination

10.1 The termination of this Agreement by either party in accordance with its terms will not give the Agent 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 Reseller acquire any goodwill in relation to RTSW's business, its appointment by RTSW or in respect of the Products and/or Services in the Territory, or otherwise under, or in respect of this Agreement.

11. Partnership and Third Parties

11.1 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.

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

12. Assignment

12.1 The Reseller 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 RTSW's written consent.

13. Force Majeure

13.1 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, acts of God, war, insurrection, riot, civil unrest, acts of civil or military authority

13.2 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 month's notice.

14. Indemnity

14.1 The Agent 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:

14.1.1 Any breach by the Reseller or by its employees or the Resellers obligations under this Agreement.

14.1.2 Any unauthorised act or omission of the Reseller or its employees

14.1.3 The manner in which the Reseller markets the Products and/or Services.

14.1.5 If translated by, or for the Reseller, the manner in which the Marketing Materials are translated.

15. Notices

15.1 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 16. Any notice may be delivered personally, or by first class prepaid letter, or by email, and will be deemed to have been served as follows:

15.1.1 If delivered by hand, when delivered.

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

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

16. General

16.1 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.

16.2 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.

16.3 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.

16.4 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

16.5 Further assurance

16.5.1 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.

16.5.2 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.

16.6 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 Reseller'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 Reseller or any End User, or in any equipment), and RTSW will be granted a reasonable extension of time for the performance of its obligations.

17. Law and Jurisdiction

17.1 This Agreement and its validity are governed by, and this Agreement is to be construed in accordance with the laws of England & Wales. The Reseller acknowledges this and agrees to submit to the jurisdiction of the Courts of England & Wales or any other Court of RTSWs choosing. Where the Reseller is outside of the jurisdiction of the Courts of England & Wales, the Reseller'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 Reseller

Signed By

Name:

Position:

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

THE SCHEDULE

The Product

All RTSW Products and/or Services as promoted on the website and being freely available, to an End user.

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

The Commission

The Commission to be paid to the Reseller is shown below, that Commission will be based upon the final price at which the sale is concluded and the Reseller accepts that this may be less than the List Price. Commission will only be paid to the Reseller upon full settlement of any invoice forwarded to the end user for payment.

a) Ten (10%) percent as shown:

- Each case of an indefinite (perpetual) licence of any of the Software sold to an End User by RTSW
- Each case of a Right to Use Licence of any of the Software sold to an End User by the RTSW. (First year only)
- 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.

b) Five (5%) percent can also be included as agreed with RTSW for the following

- Each case of a renewal of a Right to Use Licence of any of the Software sold to an End User by RTSW.
- Each case of the Annual Support Charge, and any renewal thereof, for each copy of any of the Software where the End User pays for such a renewal.
- Each case of any Hardware supplied by RT Software

c) There is no Commission associated with any of the following and the Reseller 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 Client's site.
- Any charges for recharged expenses due to travel to a client's site.
- Any miscellaneous administration charges
- Any carriage costs.

The Trade Marks

RT Software corporate and product logos

Resellers address for service in England