

**Real-Time Technology Solutions, Inc.**  
**License Agreement**

**TERMS AND CONDITIONS**

**1. Definitions.** Certain definitions used in this Agreement are set forth below, other capitalized terms used herein shall have the respective meanings set forth elsewhere in this Agreement.

**1.1. "Software"** means software in object code form, including: related end user documentation;

**1.2. "Users"** means a distinct individual with rights under this Agreement to use the applicable Software.

**2. License & Restrictions.**

**2.1. License Grant.** Subject to the terms and conditions of this Agreement, RTTS grants to Licensee a non-exclusive, non-transferable, non-sublicensable right and license to use the object code version of the Software only (i) in accordance with the documentation, (ii) for Licensee's internal business purposes, and (iii) during the Term of this Agreement. Licensee has no right to receive, use or examine any source code or design documentation relating to the Software.

**2.2. Licenses to Third Party Materials.** In connection with the Software, RTTS may use, or provide Licensee access to, software, source code or other technology ("In-Licensed Materials") licensed to RTTS from, and owned by, third parties ("Third Party Licensors"), as identified in this Agreement and the documentation delivered to Licensee. Licensee acknowledges and agrees that in addition to this Agreement, use of In-Licensed Materials shall be subject to all other terms and conditions set forth in a license agreement provided with the In-Licensed Materials. Some third party technology, as may be necessary or appropriate for use with some programs provided by Third Party Licensors, is licensed to Licensee solely for use with the Software under the terms of the third party license agreement specified in the Software package documentation or as Licensee is otherwise notified by RTTS and not under the terms of this Agreement. Licensee agrees that the Third Party Licensors and suppliers are intended third party beneficiaries to this Agreement.

**2.3. Ownership.** RTTS and its licensors (including the Third Party Licensors referenced above) retain all right, title and interest in and to the Software, all copies, modifications and derivative works thereof; all trademarks, names, logos; and all documentation for the Software, including without limitation, all rights to patent, copyright, trade secret and other intellectual property rights.

**2.4. Restrictions.** Licensee will not and will not allow a third party to: (i) decompile, reverse engineer, disassemble or otherwise attempt to derive, analyze or use any source code or underlying ideas or algorithms related to the Software by any means whatsoever (including, but not limited to review of data structures or similar materials produced by the Software); (ii) remove or alter any product identification, markings, copyright or other notices; (iii) use or allow the use of the Software by or for the benefit of third parties, including without limitation by renting, leasing, lending, timesharing, hosting, outsourcing, subscription service or using for service bureau purposes; (iv) except as expressly and unambiguously set forth in Section 2.1 of this Agreement, reproduce the Software; (v) sell, distribute, transfer, assign, give, translate or market the Software (or any interest thereto); (vi) publish any results of benchmark tests run on the Software; or (vii) modify or create derivative works based on the Software. Licensee agrees to ensure that there is no breach, compromise or violation, by Licensee employees, consultants, agents, customers, suppliers or independent contractors, of such obligations and RTTS's and its licensors rights and title or interest to the Software.

**2.5. Restricted Rights.** The Software and documentation are provided

with RESTRICTED RIGHTS. Use, duplication or disclosure by the United States Government is subject to the restrictions set forth in FAR 12.212 and DFAR 227.7202.

**3. Term & Termination.**

**3.1. License Term.** Unless terminated earlier in accordance with this Agreement, this Agreement shall commence on the date of purchase ("Effective Date"), and shall continue until terminated by the Licensee ("Initial Term"). The Initial Term will automatically be extended for additional renewal terms, unless this Agreement is terminated at the expiration of the Initial Term or any renewal term, by either party upon at least sixty (60) days prior written notice to the other party. The Initial Term together with any renewal terms shall collectively be referred to as the "Term".

**3.2. Termination.** This Agreement may be terminated (i) by either party upon thirty (30) days prior written notice in the event of a material breach of a material provision of this Agreement by the other party which is not cured within such period; or (ii) by either party, immediately, if the other shall seek protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable insolvency proceeding, or if any such insolvency proceeding is instituted against the other (and not dismissed within one hundred twenty (120) days).

**3.3. Effects of Termination.** Upon termination of this Agreement, all licenses granted hereunder shall terminate and Licensee shall immediately cease use of the Software and return to RTTS all Software provided hereunder, provided that Sections 2.3, 2.4, 3.3, 7.4, 8, 9, 10, and 11 and any rights to payment shall survive any expiration or termination of this Agreement. Termination is not the sole remedy under this Agreement and, whether or not termination is effected, all other remedies will remain available.

**4. [RESERVED]**

**5. Acceptance.** Licensee shall have a period of ten (10) days from the date of delivery to verify that the Software, Implementation Services or Professional Services, as applicable, function in material compliance with applicable documentation. If the Software, Implementation Services or Professional Services do not perform in material compliance with applicable documentation, then (i) Licensee shall notify RTTS in writing within such period identifying all non-conformities with reasonable specificity, and (ii) RTTS shall use its reasonable commercial efforts to resolve such failure following receipt of such notice and resubmit such Software, Implementation Services or Professional Services. Following any such resubmission, Licensee shall accept or reject the applicable Software, Implementation Services or Professional Services in accordance with the acceptance procedures and within the timeframe noted above. Licensee's (a) failure to provide notice of rejection within the specified period or (b) use in a production environment shall be deemed to be acceptance.

**6. Support & Maintenance.** Provided that Licensee is in compliance with the terms and conditions of this Agreement and has paid the applicable Fees, RTTS shall provide the support and maintenance services for the Software, as described in Exhibit A attached hereto ("Support Services").

**7. Representations, Warranties & Disclaimers.**

**7.1. Limited Warranty.** RTTS warrants to Licensee that: (i) the Software will materially perform in accordance with the applicable documentation

for ninety (90) days after initial delivery to Licensee; (ii) any services performed by RTTS hereunder will be performed in a workman like manner, in accordance with general industry standards; (iii) the Software as delivered by RTTS do not contain any Trojan horses, worms, or undocumented disabling devices (Licensee understands and agrees that the Software may contain an automatic shut-down feature; and (iv) it has scanned the Software for known viruses using industry standard virus detection techniques.

**7.2. Exclusions.** RTTS's warranties in this Section 7 shall not extend to problems that result from: (i) Licensee's failure to implement all Updates issued by RTTS during the warranty period; (ii) any alterations or additions to the Software not performed by or at the direction of RTTS; (iii) failures in operation of the Software that are not reproducible by RTTS; (iv) Software operated in violation of this Agreement or not in accordance with the documentation therefor; (v) failures which are caused by Licensee's software or other software, hardware or products not licensed or provided hereunder; or (vi) In-Licensed Materials.

**7.3. Remedies.** For any Software or services not in conformance with this Section 7, RTTS will, at its discretion and cost, either repair, replace or reperform the Software or service, as applicable. This is Licensee's exclusive remedy, and RTTS's sole liability arising in connection with the limited warranties herein.

**7.4. Disclaimer.** EXCEPT AS OTHERWISE STATED HEREIN, NEITHER RTTS, ITS LICENSORS, NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, AND HEREBY DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, CORRECTNESS OR RELIABILITY, REGARDING THE USE AND RESULTS OF THE SOFTWARE, OR THAT USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE.

**8. Limitations.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, RTTS, ITS LICENSORS, AND ITS SUPPLIERS WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS IN EXCESS, IN THE AGGREGATE, OF THE FEES PAID BY LICENSEE HEREUNDER, PROVIDED THAT LICENSORS SHALL NOT BE LIABLE TO LICENSEE FOR ANY DIRECT DAMAGES WHATSOEVER; (II) ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, REVENUE, DATA OR DATA USE; (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES; (IV) FOR LOSS, INACCURACY, OR CORRUPTION OF DATA OR INTERRUPTION OF USE; OR (V) ANY MATTER BEYOND THEIR REASONABLE CONTROL. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **9. Indemnification.**

**9.1. Indemnity.** RTTS will defend, indemnify and hold Licensee harmless against any third party claims, liabilities or expenses incurred (including reasonable attorneys' fees), as well as amounts finally awarded in a settlement or by a court arising from any claim or allegation by a third party that the Software infringe or misappropriate a valid United States patent, copyright or trade secret right of a third party; *provided* that Licensee gives RTTS: (i) prompt written notice of any such claim or allegation; (ii) control of the defense and settlement thereof; and (iii) reasonable assistance in such defense or settlement. If any Software becomes or, in RTTS's opinion, is likely to become the subject of an injunction, RTTS may, at its option, (a) procure for Licensee the right to continue using such Software, (b) replace or modify such Software so that it becomes non-infringing without substantially

compromising its functionality, or, if (a) and (b) are not reasonably available to RTTS, then (c) terminate Licensee's license to the allegedly infringing Software and refund to Licensee a pro-rated portion of pre-paid Fees. The foregoing states the entire liability of RTTS with respect to infringement of patents, copyrights, trade secrets or other intellectual property rights.

**9.2. Exclusions.** The foregoing obligations shall not apply to: (i) Software modified by any party other than RTTS, if the alleged infringement relates to such modification, (ii) Software combined or bundled with any non-RTTS products, processes or materials where the alleged infringement relates to such combination, (iii) the use of a version of the Software other than the version that was current at the time of such use, as long as RTTS shall have provided Licensee with such non-infringing version, (iv) Software created to the specifications of Licensee, (v) infringement or misappropriation of any proprietary right in which Licensee has an interest, or (vi) In-Licensed Materials. Licensee will defend, indemnify and hold RTTS harmless against any costs, claims, damages or expenses incurred (including reasonable attorneys' fees), as well as amounts finally awarded in a settlement or by a court arising from any such claim or allegation, subject to conditions reciprocal to those in Section 9.1.

## **10. Confidential Information.**

**10.1. Definition.** Each party agrees that the business, technical and financial information, including without limitation, all Software, source code, inventions, algorithms, know-how and ideas and the terms and conditions of this Agreement, that is designated in writing as confidential, or is disclosed in a manner that a reasonable person would understand the confidentiality of the information disclosed, shall be the confidential property of the disclosing party and its licensors ("Confidential Information"). Confidential Information does not include information that (i) is previously rightfully known to the receiving party without restriction on disclosure, (ii) is or becomes known to the general public, through no act or omission on the part of the receiving party, (iii) is disclosed to the receiving party by a third party without breach of any separate nondisclosure obligation, or (iv) is independently developed by the receiving party.

**10.2. Confidentiality.** Except as expressly and unambiguously allowed herein, the receiving party will hold in confidence and not use or disclose any Confidential Information and shall similarly bind its employees, consultants, independent contractors and clients in writing.

**10.3. Return of Confidential Information.** Upon the expiration or termination of this Agreement, all of the Confidential Information (including any copies) will be returned to the disclosing party, and receiving party will make no further use of such materials.

**10.4. Required Disclosure.** If required by law, the receiving party may disclose Confidential Information of the disclosing party, but will give adequate prior notice of such disclosure to the disclosing party to permit the disclosing party to intervene and to request protective orders or other confidential treatment therefor.

**10.5. Relief.** Money damages will not be an adequate remedy if this Section 10 is breached and, therefore, either party may, in addition to any other legal or equitable remedies, seek an injunction or other equitable relief against such breach or threatened breach without the necessity of posting any bond or surety.

## **11. General.**

**11.1. Relationship of Parties.** The parties hereto shall each be independent contractors in the performance of their obligations under this Agreement, and nothing contained herein shall be deemed to constitute either party as the agent or representative of the other party, or both parties as joint venturers or partners for any purpose.

**11.2. Notices.** Notices under this Agreement shall be sufficient only if in writing and personally delivered, delivered by a major commercial

rapid delivery courier service or mailed by certified or registered mail, return receipt requested to a party at the address first set forth herein or as amended by notice pursuant to this subsection.

**11.3. Force Majeure.** If either party is unable to perform any of its obligations under this Agreement, other than payment obligations, due to any cause beyond the reasonable control of such party, the affected party's performance shall be extended for the period of its inability to perform due to such occurrence.

**11.4. Export Control.** Licensee shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions and regulations of the U.S. Department of Commerce, and any other applicable U.S. and foreign authority.

**11.5. Headings.** Headings and captions used in this Agreement are for convenience only and are not to be used in the interpretation of this Agreement.

**11.6. Assignment.** This Agreement and the rights and obligations herein may not be assigned or transferred, in whole or in part, by Licensee without the prior written consent of RTTS. Any assignment in violation of this provision is void and without effect. In the case of any permitted assignment or transfer of or under this Agreement, this Agreement or the relevant provisions shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties.

**11.7. Governing Law.** This Agreement shall be governed by and construed under the laws of the State of New York and the United States without regard to conflicts of laws provisions thereof, and without regard to the Uniform Computer Information Transactions Act.

**11.8. Attorneys' Fees.** In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover

its costs, expenses and attorneys' fees.

**11.9. Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement otherwise remains in full force and effect and enforceable.

**11.10. Entire Agreement.** This Agreement together with the exhibits hereto, constitute the entire agreement between the parties relating to the subject matter hereof and supersede all proposals, understandings, or discussions, whether written or oral, relating to the subject matter of this Agreement and all past dealing or industry custom.

**11.11. Waiver.** No provision of, right or privilege under this Agreement shall be deemed to have been waived by any act, delay, omission or acquiescence on the part of any party, its agents or employees, but only by an instrument in writing duly executed by both parties. No waiver by any party of any breach or default of any provision of this Agreement by the other party shall be effective as to any other breach or default, whether of the same or any other provision and whether occurring prior to, concurrent with, or subsequent to the date of such waiver.

**11.12. Modification.** No modification of this Agreement shall be effected by either party's use of any order form, purchase order, acknowledgement, shrinkwrap, boxtop, or clickwrap license, or other form containing additional or different terms. This Agreement may only be modified an instrument in writing duly executed by both parties, making specific reference to this Agreement and the clause to be modified.

**11.13. [RESERVED]**

## EXHIBIT A SUPPORT POLICY

To the extent that the License Agreement (the "Agreement") between Real-Time Technology Solutions, Inc. ("RTTS") and Licensee for the RTTS software specified in the Agreement ("Software") provides for support on the standard terms of RTTS, the following will apply during the Term.

Capitalized terms used in this Support Policy and not otherwise herein defined shall have the respective meanings set forth in the Agreement.

**1. Scope of Support Services.** RTTS shall use commercially reasonable efforts to provide the following services for the Software during the hours of 9:00 a.m. – 5:00 p.m. Eastern time, Monday through Friday, not including RTTS observed holidays ("Regular Hours"):

1.1. Maintain a customer support center capable of receiving information from the Contact Person by phone and e-mail and assigning an Error severity level to the request as defined in Section 2 of this Support Policy. The Contact Person will be provided with a case identification number along with the Error severity level assigned by RTTS.

1.2. Provide Telephone or Web Meeting Support to the Contact Person.

1.3. Provide Software updates, patches and fixes ("Updates") that RTTS, in its discretion, makes generally available to its licensees without additional charge. Product Updates consist of one copy of published revision to the documentation and one copy of revisions to the machine readable Software that are not designated as products for which RTTS charges a separate fee.

1.4. Provide access to Updates of the Software that RTTS elects to make available online.

**2. Error Severity Levels and RTTS Responses.** RTTS shall use commercially reasonable efforts to engage in the following activities in respect of any Error reported by Licensee in the then current, unmodified release of the Software in accordance with the severity level reasonably assigned to such Error by RTTS.

2.1. Severity 1 Error - means an Error that (i) renders the Software inoperative for several or all Users or (ii) prevents users from performing a necessary function, and (iii) is determined to be caused by a Software Error. Following acknowledgment of a Severity 1 Error, RTTS will commence the following procedures:

2.1.1. Notify RTTS management that such Errors have been reported and of the steps being taken to correct such Errors;

2.1.2. Provide the Contact Person with periodic reports on the status of the investigation;

2.1.2.1. Initiate work to provide Licensee with a Workaround or Fix;

2.1.3. Use reasonable best efforts to have the Error promptly resolved through a Fix or Workaround; and

2.1.4. RTTS shall respond to notice from Licensee of a Severity 1 Error in Software as follows:

2.1.4.1. During Regular Hours: The Contact Person should contact the RTTS customer support center. If the call is not answered immediately and the Contact Person leaves a message, the RTTS customer support center personnel will return the call within four (4) hours.

2.1.4.2. Outside of Regular Hours: The Contact Person should leave a message and will receive a return call prior to 11:00 a.m. local time the next business day.

2.2. Severity 2 Errors - means an Error in which a major functionality is experiencing a reproducible problem, which causes major inconvenience to the user, and is determined to be caused by a Software Error. A Workaround may exist but it has high user impact. RTTS shall exercise commercially reasonable efforts to provide Licensee with a Fix as soon as the Error has been identified and the appropriate Fix developed.

2.2.1. The Contact Person should contact the RTTS customer support center. If the call is not answered immediately and the Contact Person leaves a message, RTTS customer support center personnel will return the call within three business days.

2.2.2. Following RTTS's acknowledgment of the Severity 2 Error, RTTS will provide Licensee with a resolution plan for the Error, and shall provide to Licensee periodic status updates.

2.3. Severity 3 Errors - means an Error in which an important function of the Software is experiencing an intermittent problem or a common non-essential operation is failing consistently. Use of the Software in the manner in which it was intended is not materially affected. RTTS shall exercise reasonable efforts to include a Fix for the Error in the next regular Software maintenance release.

**3. Exclusions/Restrictions.**

3.1. General. RTTS shall have no obligation to support the Software if Errors (i) result from alteration, modification or damage to the Software not performed by RTTS, (ii) result from any combination of the Software with any computer hardware or software not provided by RTTS, (iii) result from use of the Software other than in accordance with its documentation, (iv) result from use of other than the most-current release of the Software, (v) result from the installation of the Software on any hardware that is not supported by RTTS, or (vi) are not reproducible in stand alone form.

3.2. New Releases. RTTS will advise Licensee of all new releases or revisions for which RTTS charges a separate fee, but shall not be obligated to provide such releases or revisions.

3.3. Charges for Excluded Support. RTTS will have the right to charge Licensee, in accordance with RTTS's then-current policies and rates, for any services resulting from problems, errors or inquiries relating to computer hardware or software other than the Software or services provided in respect of any of the exclusions set forth herein. Excluded Support includes any server move after one time per one-year term. For clarity, the first server move per year is included in the base scope of support.

3.4. Charges for Licensee Hardware. RTTS shall have no liability for any changes in Licensee's hardware that may be necessary to use the Software due to a Workaround, Fix, new product release or Update.

**4. Licensee Responsibilities.**

4.1. Information. Licensee is responsible for providing sufficient information and data to allow RTTS to readily reproduce all reported Errors.

4.2. Third Party Software. Licensee is responsible for licensing, installing and maintaining all third party software not explicitly licensed under the Agreement.

4.3. Backups. Licensee is responsible for performing regular backups of the RTTS system (Software and data). However, in the event of an Error that results in loss of data or data integrity, RTTS will work with Licensee to remedy the problem in accordance with Section 2 of this Support Policy, in which case service fees will not apply, subject to Section 3 of this Support Policy.

4.4. Connectivity. Subject to Licensee's reasonable security procedures, Licensee will provide to RTTS, or its third-party designees, a continuous, high-speed connection through Licensee's firewall to all installed RTTS systems (Software and data), for the purposes of providing Fixes, Updates and Telephone Support, troubleshooting, and monitoring compliance under the Agreement.

**5. Definitions.**

5.1. "Error" means an error in the Software, which significantly degrades such Software as compared to the RTTS published and functional performance specifications, and is reproducible by RTTS.

5.2. "Fix" means the repair or replacement of object or executable code versions of the Software to remedy an Error or, if applicable, repair or replacement of applicable Software.

5.3. "Telephone or Web Meeting Support" means technical support via telephone, a web meeting technology, or email assistance provided by RTTS to the Contact Person during Regular Hours concerning the use of the then-current release of the Software.

5.4. "Workaround" means a change in the procedures followed or data supplied by Licensee to avoid an Error without substantially impairing Licensee's use of the Software.

THIS SUPPORT POLICY DEFINES A SERVICE ARRANGEMENT AND NOT A WARRANTY. THE SOFTWARE AND MATERIALS AND SERVICES RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE APPLICABLE AGREEMENT. THESE STANDARD SOFTWARE SUPPORT TERMS AND CONDITIONS DO NOT CHANGE OR SUPERSEDE ANY TERM OF ANY SUCH AGREEMENT.