



REAL-TIME INNOVATIONS, INC. SOFTWARE LICENSE AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE DOWNLOADING, INSTALLING, OR USING THIS PRODUCT. THIS AGREEMENT GRANTS THE ORIGINAL LICENSEE OF THE SOFTWARE (“YOU”) THE RIGHT TO USE THIS PRODUCT FOR SPECIFIED PURPOSES. THIS AGREEMENT STATES THE TERMS AND CONDITIONS UPON WHICH REAL-TIME INNOVATIONS, INC. (“RTI”) OFFERS OR ACCEPTS YOUR OFFER TO LICENSE THIS PRODUCT AND THE RELATED DOCUMENTATION (COLLECTIVELY, THE “SOFTWARE”) TO YOU. UNLESS YOU HAVE A DIFFERENT LICENSE FROM RTI, ALL USE OF THE SOFTWARE IS SUBJECT TO THE TERMS OF THIS AGREEMENT. BY DOWNLOADING, INSTALLING, AND/OR USING THIS PRODUCT, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT DOWNLOAD, INSTALL, OR USE THIS PRODUCT.

The Software is licensed, not sold, to You for use only under the terms of this Agreement and RTI reserves all rights not expressly granted to You. RTI retains ownership of all copies of the Software.

1. Definitions

- A License Acknowledgment Certificate (“LAC”) is a separate document issued by RTI to You specifying the details of the licenses that You are granted. You may have multiple LACs. If You do not have an LAC, then Your use is as specified under “Evaluation License” below.
- A “Project” is a concerted undertaking by an identified development team to design or produce a Target Application or connected set of Target Applications that has a specified scope of functionality, as specified in the LAC.
- A “Project Type” is a collection of restrictions on and/or licenses granted to the Project as specified in the LAC.
- A “Site” is a physical location or set of locations, including reasonable remote access, as specified in the LAC.
- A “Target Application” is a user-developed software program that requires physical incorporation or linking of portions of the Software to execute.
- A “User” is a person on the Project team who has used the Software for any purpose in the preceding six (6) months, including to develop, test, stage, or run a Target Application.
- Development use is developing code that links to and uses the Software either directly or through any number of internally-developed “wrapper” Application Programmer Interface (API) layers. Development includes making copies of the library portions of the Software (in subdirectory “/lib”) in object code form and linking or physically incorporating the copies into a Target Application. Development includes any use of the Software’s programming and analysis tools, XML-based or other configuration, or other components of the Software with a Graphical User Interface (GUI).
- A “Developer” is a User who does Development.
- A “CPU” is any physical computer processor that has executed a Target Application or the Software in the preceding six (6) months. In a virtual environment, the number of CPUs is the maximum number of simultaneously-loaded images in the preceding six (6) months.
- “Internal End Use” is use of the Software in an internal Target Application to produce revenue or benefit.
- The “Term” is the active period of this Agreement, as specified in the LAC.

2. License

All licenses are non-transferable and non-exclusive. Use is limited to the designated Site and Project, on the Licensed Host(s) or Platform(s) as defined in the LAC. For each license, You must pay RTI fees in accordance with RTI’s then-current, applicable, published price list, or as may be specifically agreed to in writing between You and RTI.

a) Developer License

If You have an LAC that specifies a number of Developer Licenses, then up to that number of Users may use the Software for Development during the Term.

b) Internal CPU License

If You have an LAC that specifies a number of Internal CPU licenses, then up to that number of CPUs may execute the Software internal to your Project at the Site during the Term.

c) OEM Runtime CPU License

If You have an LAC that specifies a number of OEM Runtime CPU licenses, then You may physically incorporate copies of the Software into a Target Application and distribute Target Applications using up to that number of CPUs. Such copies may be made only at the Site on the Project. These terms apply to all such Target Applications:

- i. Unless your LAC states that you may use an unlimited number of OEM Runtime Licenses, You agree to keep records of the numbers Target Applications and CPUs you distribute. RTI shall have the right, upon reasonable notice, to examine Your records regarding such practices.



- ii. Unless specified in the LAC, Target Applications may not contain software development functionality, RTI source code, or components of the Software with a Graphical User Interface (GUI).
- iii. You must distribute Your Target Application to end users with a license that acknowledges RTI's copyright, prevents further copying of the Software (except for backup purposes), and expressly disclaims all warranties by RTI.
- iv. RTI offers no warranty to Your end users. THE SOFTWARE, WHEN INCORPORATED INTO A TARGET APPLICATION, IS PROVIDED "AS IS" AND WITHOUT WARRANTY OF ANY KIND. RTI DISCLAIMS ALL WARRANTIES, EITHER EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD-PARTY RIGHTS.
- v. Any valid end-user licenses to Target Applications incorporating Software granted by You under this Agreement shall survive the termination of this Agreement.

d) Source License

If you have an LAC that specifies a Source License, then You may use and modify the source code, and build object versions of the original or modified source code.

If You modify the source code, then You assign and convey all of Your copyright to such modifications and derivative works to RTI. If for any reason You cannot assign Your copyright, then You grant RTI a perpetual, worldwide, non-exclusive, assignable, paid-up license to use, copy, modify, distribute, create derivative works, sublicense, and otherwise fully utilize the modifications without acknowledgment of ownership. You also assign or license to RTI any other intellectual property rights required to fully use the modifications for any purpose. You agree to provide such modifications to RTI upon request. RTI may incorporate Your modifications into any future version of the Software or into other products at its sole option without fees or attribution.

If You modify the Software, then all warranties are void. Unless agreed otherwise, RTI has no obligation to support the modified Software.

A Source License does not grant other rights; a Developer License is required for Development, and an Internal CPU or an OEM Runtime CPU License is required to create or distribute Target Applications.

e) Evaluation License

If You have an Evaluation License, or have not received an LAC or one of the above licenses from RTI, or are using an evaluation or pre-production ("Beta" or "Early Access Release") version of the Software, then RTI grants to You a temporary license to use the Software for the sole purpose of testing the suitability, performance and usefulness of the software for Your business needs. You may not use the Software for Development (beyond prototypes), or commercial purposes.

Unless extended by RTI, the Beta or Evaluation period ("Term") concludes thirty (30) days from the date of Your first download or installation of the Software.

For all types of licenses, if You elect to use the Software after the Term, You will need to acquire an appropriate license. For all licenses with a specified numerical limit, You agree to provide RTI with good-faith estimates of actual license usage annually. This Agreement and the licenses it grants terminate at the end of the Term. You may make a reasonable number of copies of the Software strictly for backup or archival purposes.

3. Additional Restrictions

- a) Except as provided herein, You may not market, distribute or transfer copies of the Software to others. You may not rent, lease, loan or otherwise provide the Software to any third parties.
- b) You may not use the Software if You are a direct competitor or acting on behalf of a direct competitor of RTI, except with RTI's prior written consent. You may not use the Software for competitive purposes such as evaluating performance or functionality without RTI's prior written consent.

4. Limited Warranty

- a) Research and Nonprofit Licenses and Research and Nonprofit Project Types (as defined in the LAC), Evaluation Licenses, and OEM Runtime CPU Licenses are provided "as is" with no warranty whatsoever. The warranties in this section apply only to paid licenses for fully-released versions of the Software at the Site.
- b) RTI warrants that the Software will perform substantially in accordance with the accompanying written materials for an installation period of ninety (90) days from the date that the Software is first downloaded by You. RTI does not warrant that the Software will meet Your requirements or operate free from error. This limited warranty gives You specific legal rights. You may have others, which vary from state to state. After the installation warranty period, you may elect to purchase support or maintenance subject to RTI's policies then in effect see: <http://www.rti.com/downloads/support-policy.html> and <http://www.rti.com/downloads/maintenance-policy.html>



- c) RTI warrants that, other than documented license management technology, the Software as well as any medium used to provide the Software will be free of viruses, worms, Trojan horses, time bombs, back or trap doors, or other debilitating or disabling devices or malicious code.
 - d) RTI warrants that the Software is subject to no restrictions or licenses that would require You to redistribute any of Your source code.
 - e) RTI warrants that it has the right to grant You the licenses herein.
 - f) RTI's entire liability and Your sole and exclusive remedy for any breach of the foregoing warranty shall be, at RTI's option, to either: (i) return the price paid for the Software; or (ii) repair or replace the Software. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.
 - g) RTI DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY RTI, ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY AND YOU MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE.
5. Infringement Indemnity. RTI will defend any suit brought against You and will pay all damages finally awarded in such suit insofar as such suit is based on a claim that the Software as provided to You infringes a third party, provided that RTI is notified promptly of such claim and at its expense is given full and complete authority (including settlement authority), information and assistance by You for such defense. In the event that the Software is held in any such suit to infringe such a right and its use is enjoined, or if in the opinion of RTI the Software is likely to become the subject of such a claim, RTI at its own election and expense will either: (i) procure for You the right to continue using the Software; or (ii) modify or replace the Software so that it becomes non-infringing while giving equivalent performance. In the event that (i) or (ii) above are not, in RTI's sole determination, reasonably practicable, then RTI may terminate this Agreement and refund an equitable portion of money paid by You in connection with the licenses granted hereunder.
6. Limited Liability
- a) RTI SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, COSTS OF COVER, OR THE LIKE) ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE (WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE) EVEN IF RTI OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - b) IN PARTICULAR, YOU RECOGNIZE THAT THE SOFTWARE MAY BE PART OF A SYSTEM USED TO CONTROL EXPENSIVE OR DANGEROUS EQUIPMENT. RTI SHALL NOT BE LIABLE FOR ANY DAMAGE OR INJURY RESULTING FROM THE OPERATION OF SUCH EQUIPMENT. You agree to indemnify, defend and hold RTI harmless from any claim, lawsuit, legal proceeding, settlement or judgment (including without limitation RTI's reasonable United States and local attorneys' and expert witnesses' fees and costs) arising out of or in connection with the copying, marketing, performance or other distribution of Your Target Applications.
 - c) THE LIABILITY OF RTI FOR ANY CLAIMS ARISING OUT OF THIS AGREEMENT OR USE OF THE SOFTWARE, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE GREATER OF THE AGGREGATE LICENSE FEES YOU PAID FOR THE SOFTWARE OR \$10,000.
 - d) THE LIMITED WARRANTY, LIMITED REMEDIES AND LIMITED LIABILITY SPECIFIED IN THIS AGREEMENT ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN RTI AND YOU. RTI WOULD NOT BE ABLE TO PROVIDE THE SOFTWARE WITHOUT SUCH LIMITATIONS.
7. Open Source
- a) Portions of the Software may be derived from works of contributors to open source projects (Contributors). Contributors disclaim all warranties, express or implied as to conditions of title non-infringement, merchantability or fitness to purpose. Contributors disclaim all liability for damages, including direct, indirect, special, or consequential damages. Any such warranties and liability are offered by RTI alone as stated and limited in this Agreement.
 - b) If required by the respective licenses, source code for the modified open source works is available by emailing a request to "license@rti.com".
8. Support and Maintenance
- a) RTI shall have no obligation under this Agreement for corrections of errors or problems which are due to a breach by You of the terms of this Agreement, or which cannot be remedied due to the operational characteristics of the computer equipment on which the Software is used.
 - b) Except as may be provided above or in a separate RTI Maintenance Agreement between RTI and You, if any, RTI is under no obligation to maintain or support the Software supplied to You and RTI has no obligation to furnish You with any further assistance, documentation or information of any nature.



- c) You are solely responsible for the support and maintenance of all portions of any Target Applications developed by You.
9. Confidentiality. RTI considers the Software to contain valuable trade secrets of RTI, the unauthorized disclosure of which could cause irreparable harm to RTI. You agree to use reasonable efforts not to disclose the Software to any third parties and not to use the Software other than for the purposes authorized by this Agreement. You also agree that performance, functionality or other competitive evaluation results shall not be disclosed to third parties without RTI's prior written consent. For the purposes of this Article, Your subcontractors under appropriate non-disclosure obligations with respect to the Software shall not be considered third parties. This confidentiality obligation shall continue after any termination of this Agreement.
10. Termination. If the Term is designated as "Permanent" in the LAC, then this Agreement will continue indefinitely unless terminated due to breach. If the Term is designated "Subscription" in the LAC, then this Agreement will terminate on the Expiration Date specified in the LAC unless terminated due to breach. In the event of a breach of this Agreement by either party, the other party may terminate this Agreement if such breach is not cured within 10 days of written notice. Upon termination, You agree not to use the Software for any purpose whatsoever and (except for reasonable backup archives) to destroy the Software and any copies then in Your possession or control, and (on request) certify in writing or via e-mail to RTI that the Software was destroyed. The remedies specified in this Agreement shall be in addition to any other remedies available to RTI.
11. Export Control. The Software is subject to United States Export Administration and Regulations. Downloading, installing, or using the Software, or selecting the online "Accept License Agreement" button is a confirmation of Your agreement that You (including all Users and Projects) comply, now and during any use term, with all domestic and international export laws and regulations that apply to the Software. These laws include restrictions on destinations, end users and end use. If the Software is exported from the United States or re-exported from a foreign destination, You shall ensure that the distribution and export/re-export or import of the Software complies with all laws, regulations, orders, or other restrictions of the U.S. Export Administration Regulations.
12. Government End Users. If the Software is acquired by or on behalf of a unit or agency of the United States Government, this provision applies. The Software: (a) was developed at private expense, (b) is a trade secret of RTI for all purposes of the Freedom of Information Act, (c) is "Commercial Computer Software" as defined by the Federal Acquisition Regulation (d) in all respects is proprietary data belonging solely to RTI, (e) is unpublished and all rights are reserved under the copyright laws of the United States. If the Software is acquired under a GSA Schedule, the Government has agreed to refrain from changing or removing any insignia or lettering from the Software or the documentation that is provided or from producing copies of manuals or media (except for backup purposes).
13. General. This Agreement will be governed by the laws of the State of California except with regard to its choice of law rules. This Agreement and the License Acknowledgment Certificate(s) between RTI and You constitute the complete, final and exclusive statement of the agreement between RTI and You, which supersede all proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. No terms of Your purchase order nor any waiver, alteration or modification of the provisions of this Agreement will be valid unless made in writing and signed by a corporate officer of RTI. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration in Santa Clara County, California under the Commercial Arbitration Rules of the American Arbitration Association by one arbitrator appointed in accordance with said rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, the parties may apply to any court of competent jurisdiction for injunctive relief without breach of this arbitration provision. If any provision or provisions of this Agreement are determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement will not in any way be affected or impaired thereby. RTI may assign this Agreement to an entity acquiring essentially all of the RTI's relevant business. You may not assign, sub-license, or otherwise transfer this Agreement without RTI's prior written consent.

If You have any questions concerning this Agreement, or if You want to contact RTI for any reason, please write or call: Real-Time Innovations, Customer Service, 232 East Java Drive, Sunnyvale, CA 94089; license@rti.com; (408) 990-7400.