

## ANALYTICAL GRAPHICS, INC.

### RT3 Development License Agreement

**NOTICE TO USER:** PLEASE READ THIS RT3 DEVELOPMENT LICENSE AGREEMENT ("AGREEMENT") CAREFULLY. THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND ANALYTICAL GRAPHICS, INC. ("AGI"), A PENNSYLVANIA CORPORATION, LOCATED AT 220 VALLEY CREEK BOULEVARD, EXTON, PA 19341. BY USING ALL OR ANY PORTION OF THE RT3 DEVELOPMENT KIT ("LICENSED TECHNOLOGY") MADE AVAILABLE BY AGI, YOU ACCEPT ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY OF THESE TERMS, DO NOT INSTALL, DOWNLOAD OR USE THE RT3 DEVELOPMENT KIT. AGI PROVIDES THE RT3 DEVELOPMENT KIT AND DOCUMENTATION, AND LICENSES ITS USE TO YOU. YOU ACCEPT ALL RESPONSIBILITY AND LIABILITY RESULTING FROM THE SELECTION OF THE RT3 DEVELOPMENT KIT TO ACHIEVE YOUR INTENDED RESULTS, AND FOR INSTALLATION, USE AND RESULTS OBTAINED FROM THE RT3 DEVELOPMENT KIT, AND FOR RELIANCE ON THE RESULTS OBTAINED.

#### 1. DEFINITIONS

"Documentation" means the licensed specifications, user manuals, installation instructions and other supporting materials, including additional, updated or revised materials, if any, that are provided by AGI in connection with the RT3 Development Kit.

"RT3 Application" means a custom application created by You that includes components of the RT3 Development Kit.

"RT3 Client License" means a licensed purchased from AGI and is required to access an RT3 Application. .

"RT3 Developer Resources" means the RT3 Documentation and RT3 Sample Source Files in their original forms, which are to be used to facilitate the development of RT3 Applications.

"RT3 Developer Technology" means the software technology of AGI that includes the RT3 Code Libraries, the RT3 Sample Server Application, the InterSystems Cache and the RT3 Standard Data Feed Interfaces.

"RT3 Development Kit" shall mean, collectively, the RT3 Developer Technology and the RT3 Developer Resources, provided and licensed to You by AGI at no charge.

"Licensed Technology" means the RT3 Development Kit, and all or any portion of AGI's proprietary software technology, computer software code, code libraries, underlying organization, object model, and programs delivered on any media with which this Agreement is provided, including but not limited to (i) AGI or third party computer information or software; and (ii) digital images, stock photographs, video, clip art, sound(s) or other work.

"Third Party Content" means software (whether embedded or not) and other materials owned and licensed by third parties that is supplied by AGI with the Licensed Technology.

"Use or Using" means to access/open, install, download, copy, or otherwise benefit from the Licensed Technology or the Documentation.

#### 2. LICENSED TECHNOLOGY AND LICENSE GRANT

2.1 Subject to the terms and conditions of this Agreement and payment of all resulting applicable fees, AGI grants to you a non-exclusive, non-transferable license to use the Licensed Technology to develop RT3 Applications as provided for under this Agreement.

2.2 You may:

(a) install and use the Licensed Technology for the purpose of to designing, developing, testing and demonstrating your RT3 Applications.

(b) reproduce, distribute and sublicense RT3 Applications that You have created to third parties, (without the right to further sublicense) provided that you or those third parties have purchased RT3 Client Licenses from AGI for each copy.

(c) as part of an RT3 Application, deploy the RT3 Developer Technology, and any modified RT3 Sample Source Files, necessary for the RT3 Application to operate and function.

(d) deploy RT3 Applications in a client-server architecture where the server is based on the RT3 Sample Server Application. The RT3 Sample Server Application will require an RT3 Client License to run and operate.

(e) deploy RT3 Applications in a client-server architecture where the server application has been developed by You (the Developer) using RT3 Code Libraries. Your RT3 server will require an RT3 Client License to run and operate.

(f) deploy RT3 Applications in a client-server architecture where the server application does not use any portion of the RT3 Code Libraries from the RT3 Development Kit. In this case, the server application will not require the purchase of an RT3 Client License.

2.3 You and Your End Users shall not:

(a) distribute, license, lease, sell, transfer or otherwise disseminate through any means now existing or later developed, the RT3 Development Kit or distribute, license sell or transfer any component of the RT3 Development Kit except as part of an RT3 Application;

(b) use AGI's name, logo(s) or trademarks to market or promote RT3 Applications, except as may be permitted in a separate agreement between You and AGI;

(c) reverse assemble, reverse compile or translate any library of the RT3 Development Kit;

(d) remove a copyright notice, disclaimer, or other from of attribution from any library of the RT3 Development Kit; and

(e) circumvent the operation of any RT3 Client License by any means.

### **3. LIMITATIONS OF REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY**

YOU MAY NOT USE, COPY, MODIFY OR TRANSFER THE LICENSED TECHNOLOGY OR DOCUMENTATION OR ANY COPY, MODIFICATION OR MERGED PORTION THEREOF, IN WHOLE OR IN PART, EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT. FURTHERMORE, YOU MAY NOT REVERSE ENGINEER, DISASSEMBLE, DECOMPILER OR OTHERWISE ATTEMPT TO RECONSTRUCT OR DISCOVER ANY SOURCE CODE, DATA, DIGITAL CERTIFICATES, PASSWORDS, UNDERLYING IDEAS, ALGORITHMS, FILE FORMATS OR PROGRAMMING INTERFACES OF THE LICENSED TECHNOLOGY, OR ALLOW OTHERS TO ATTEMPT ANY OF THE FOREGOING.

### **4. LIMITATION AND WARRANTIES**

4.1 THE RT3 DEVELOPMENT KIT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. YOU ASSUME THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE RT3 DEVELOPMENT KIT. AGI DOES NOT WARRANT THAT THE FUNCTIONS OR TECHNOLOGY CONTAINED IN THE RT3 DEVELOPMENT KIT WILL BE UNINTERRUPTED OR ERROR FREE

4.2 SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS, IN WHOLE OR IN PART, MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

4.3 AGI PROVIDES NO WARRANTY OF ANY KIND WITH REGARD TO RT3 APPLICATIONS THAT YOU CREATE USING THE RT3 DEVELOPMENT KIT, NOR IS AGI OBLIGATED TO PROVIDE UPDATES, MAINTENANCE, SUPPORT, DOCUMENTATION OR ANY OTHER SERVICES OR SUPPORT TO ANY THIRD PARTY TO WHOM YOU HAVE DISTRIBUTED RT3 APPLICATIONS CREATED WITH THE RT3 DEVELOPMENT KIT.

### **5. LIMITATION OF REMEDIES**

5.1 IN NO EVENT WILL AGI OR ITS SUPPLIERS, DISTRIBUTORS, OR DEALERS BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT OR OTHER DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE RT3 DEVELOPMENT KIT, OR A LOSS OF DATA OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, EVEN IF AGI OR ANY AUTHORIZED AGI BUSINESS PARTNER HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR SHALL AGI BE LIABLE FOR ANY SIMILAR CLAIM AGAINST YOU BY ANY OTHER PARTY.

5.2 AGI'S OBLIGATIONS UNDER THIS AGREEMENT, UNDER ANY THEORY OF LIABILITY OR CONTRIBUTION, SHALL NOT EXCEED THE AMOUNT OF THE APPLICABLE RT3 CLIENT LICENSE FEES PAID BY YOU.

## **6. UNITED STATES EXPORT CONTROL**

You hereby acknowledge and agree that the AGI Software Products provided under this Agreement are subject to U.S. Export Control Regulations and Laws, including but not limited to the Export Administration Regulations (EAR) and as may be applicable, the International Traffic in Arms Regulations (ITAR), and may be subject to the import or export regulations of other countries. You agree to strictly comply with all such laws and regulations and acknowledge your responsibility to obtain licenses for export, re-export or import of the Software, as may be required. You acknowledge and agree to comply with U.S. antiboycott laws and regulations, including but not limited to those regarding foreign boycott of Israel, as administered by the U.S. Internal Revenue Service (IRS) and the U.S. Department of Commerce, Office of Antiboycott Compliance (OAC). In the event that transfer of bank funds to AGI results from this Agreement, all transactions shall be exclusively and directly between customer's bank and AGI, and shall not be used for transactions in violation of U.S. law, including but not limited to laws administered by the U.S. Department of Treasury, Office of Foreign Asset Control (OFAC). This export control provision shall survive the expiration or termination of this Agreement.

## **7. TERMINATION**

The license granted under this Agreement is effective until terminated. You may terminate this license at any time by destroying all copies of the Licensed Technology in your possession, and providing written notice of such termination and destruction to AGI. The license granted under this Agreement will terminate if you violate any of the terms and conditions of the Agreement, including without limitation, to pay the license fees and any other sums due AGI pursuant to this Agreement. You agree, upon such termination, to promptly destroy all copies of the License Technology in your possession and to certify in writing to AGI that such action has been taken.

## **8. LAW TO GOVERN**

This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, United States of America. You hereby agree that the jurisdiction and venue for any claim, dispute, controversy or other action arising out of or in connection with the Licensed Technology, this Agreement and/or AGI, shall be in the Commonwealth of Pennsylvania, Court of Common Pleas for Chester County, or the United States District Court for the Eastern District of Pennsylvania located in Philadelphia, Pennsylvania.

## **9. ASSIGNMENT**

None of your rights, duties or obligations under this Agreement may be sold, sublicensed, assigned, rented, licensed, loaned or otherwise transferred without the prior written consent of AGI, and any attempt to so sell, sublicense, assign, rent, lease, loan or transfer without AGI's prior written consent is void.

Notwithstanding the foregoing provision, AGI shall permit transfers of this Agreement from contractors to customer end users, provided the original software purchase transaction was completed pursuant to a valid contract, and you have obtained AGI's prior written consent, which shall not be unreasonably withheld.

## **10. NOTICES**

Any notices regarding this Agreement shall be sent to:

Analytical Graphics, Inc.  
Attn: Contracts Department  
220 Valley Creek Blvd.  
Exton, PA 19341

## **11. AUDIT**

AGI or its designee may, from time to time, at its sole expense, and consistent with your security obligations and requirements, conduct an audit of your computer hardware, computer software, books and other records related to the Licensed Technology sufficient to substantiate compliance with this Agreement. Such audit shall take place during normal business hours and will be conducted in a manner so as to not interfere with your operations.

**12. INTELLECTUAL PROPERTY AND OWNERSHIP**

AGI or its suppliers retain all right, title and interest in and to the Licensed Technology and all components thereof. This Agreement shall not be construed in any manner as transferring any rights of ownership or license to the Licensed Technology and all components thereof, and/or to the features or information therein except as expressly licensed under Section 2. All rights not expressly granted by AGI are reserved. The Licensed Technology is protected by copyright and other intellectual property laws and treaties.

**13. U.S. GOVERNMENT RESTRICTED RIGHTS**

13.1 The Licensed Technology and Documentation are "Commercial Items," as that term is defined at 48 CFR 2.101, consisting of Commercial Computer Software and Commercial Computer Software Documentation.

13.2 The Licensed Technology is provided with Restricted Rights and use, duplication by or disclosure to the U.S. Government is subject to the restrictions set forth in FAR Clause 48 CFR 12.211 and 48 CFR 12.212 and DFARS Clause 48 CFR 227.7202 related to Commercial Computer Software and Commercial Computer Software Documentation, as applicable. The developer and manufacturer is Analytical Graphics, Inc., located at 220 Valley Creek Boulevard, Exton, PA 19341.

**14. THIRD PARTY CONTENT**

The Licensed Technology utilizes Third Party Content which is subject to the terms and conditions of such respective third parties. Third party terms, conditions and copyright attributions may also be viewed at [www.agi.com/sla](http://www.agi.com/sla).

**15. INDEMNIFICATION**

You shall indemnify, defend and hold harmless AGI from any and all claims or actions, including attorney’s fees, arising out of or related to Your use and operation of the Licensed Technology, and RT3 Applications that You have created using the RT3 Development Kit.

**16. ACKNOWLEDGEMENTS**

16.1 YOU HAVE READ THIS ENTIRE AGREEMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS;

16.2 THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE UNDERSTANDING AND CONTRACT BETWEEN US AND SUPERSEDES ANY AND ALL PRIOR ORAL OR WRITTEN COMMUNICATIONS RELATING TO THE SUBJECT MATTER HEREOF;

16.3 THIS AGREEMENT MAY NOT BE MODIFIED, AMENDED OR IN ANY WAY ALTERED EXCEPT BY A WRITTEN AGREEMENT SIGNED BY BOTH YOU AND AGI;

16.4 ANY PROVISION FOUND BY A COURT OF LAW TO BE ILLEGAL, INVALID, OR UNENFORCEABLE SHALL AUTOMATICALLY BE DEEMED CONFORMED TO THE MINIMUM REQUIREMENTS OF LAW AND IT, WITH ALL OTHER PROVISIONS, SHALL BE GIVEN FULL FORCE AND EFFECT. WAIVER OF A PROVISION IN ONE INSTANCE SHALL NOT PRECLUDE ITS ENFORCEMENT ON FUTURE OCCASIONS. SUCH FINDINGS OF ILLEGALITY, INVALIDITY, AND/OR UNENFORCEABILITY OF ONE OR MORE OF THE PROVISIONS HEREIN SHALL NOT AFFECT THE REMAINING PROVISIONS; AND

16.5 YOU HEREBY AGREE THAT AGI WOULD BE IRREPARABLY DAMAGED IF THE TERMS AND CONDITIONS OF THIS AGREEMENT WERE NOT SPECIFICALLY ENFORCED, AND THEREFORE YOU AGREE THAT AGI SHALL BE ENTITLED TO APPROPRIATE EQUITABLE REMEDIES WITH RESPECT TO BREACHES OF THIS AGREEMENT, IN ADDITION TO SUCH OTHER REMEDIES AS AGI MAY OTHERWISE HAVE AVAILABLE TO IT UNDER APPLICABLE LAWS. IN THE EVENT THAT AGI IS REQUIRED TO BRING AN ACTION, SUIT, OR OTHER PROCEEDING FOR FEES, OTHER MONIES DUE UNDER THIS AGREEMENT, OR THE ENFORCEMENT OF ANY PROVISION OF OR UNDER THIS AGREEMENT; YOU AGREE TO REIMBURSE AGI FOR ANY AND ALL COSTS AND EXPENSES, INCLUDING ATTORNEY AND PROFESSIONAL OR EXPERT FEES, INCURRED BY AGI.

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