



Software Reseller Agreement

This Software Reseller Agreement (this "Agreement") is entered into by and between the Reseller and Rampiva Global, LLC ("Rampiva"). Rampiva (together with its affiliated entities) has developed and desires to advertise, promote, market and distribute certain software and related products (the "Products"). Reseller desires to obtain the right to act as a non-exclusive, independent reseller, referrer, or service provider of the Products (as applicable, and as more fully described in Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference). Rampiva and Reseller are each sometimes referred to hereinafter as a "Party", and collectively as the "Parties".

1 DEFINITIONS

- 1.1 "Confidential Information" is any information marked as confidential and all other information that would reasonably be expected to be confidential. Confidential Information does not include information: (a) which is publicly known; (b) which is disclosed to the other Party without restriction by a third party and without any breach of confidentiality by the third party; or (c) which is developed independently by the other Party without reliance on any of the discloser's Confidential Information.
- 1.2 "Documentation" means the applicable user manuals, handbooks, installation guides and relating documentation regarding the Products.
- 1.3 "Intellectual Property Rights" or "IP" means any and all rights arising from or under any of the following, whether protected, created or arising: patents (including, but not limited to, any applications, extensions, divisions, continuations, continuations-in-part, re-examinations, reissues, and renewals related thereto), copyrights (including, but not limited to, any applications, registrations and renewals related thereto), trademarks and service marks (including, but not limited to, applications, registrations, and renewals related thereto), trade dress, trade names, trade secret and know-how and any other intellectual property or proprietary rights of any nature, by whatever name or term known or however designated.
- 1.4 "End User" means the Licensee entity listed which is granted a license by Rampiva under the Rampiva End User License Agreement.
- 1.5 "Market" means the geographical territory referenced in Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference.
- 1.6 "MSRP" means Manufacturer's Suggested Retail Price, which is the amount Rampiva recommends that its marketing partners use as the selling price for the Product.
- 1.7 "Opportunity" or "Opportunities" means Reseller Opportunities, Referral Opportunities, Affiliate Opportunities and/or Strategic Incentives, as the context requires.
- 1.8 "Reseller Discount" means the percentage discount off the MSRP price offered to the Reseller, based on the Opportunity Type described in Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference.
- 1.9 "Product" means the software and accompanying documentation referenced in Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference.

2 Appointment; DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS

- 2.1 Appointment. The Parties hereby agree that from time to time during the term of this Agreement,

Rampiva may make certain business opportunities available to Reseller on a non-exclusive basis, as more fully set forth in Scheduled A annexed hereto. This Agreement (including all exhibits, schedules and annexes) shall govern each such opportunity.

- 2.2 Non-Exclusive Agreement. Without limiting the generality of the foregoing, Rampiva reserves the right to advertise, promote, market and distribute the Products, and to appoint third parties to advertise, promote, market and distribute the Products, worldwide. Rampiva reserves the right, at its sole discretion, at any time, to modify any or all of the Products and services it offers, or to discontinue the service, support of publication, distribution, sale or licensing of any or all of the Products without liability of any kind.
- 2.3 Termination. Without prejudice to any other rights, either Party may terminate this Agreement if the opposite Party fails to comply with the terms and conditions of this Agreement and (except in the case of non-payment of license fees by licensee) such breach continues uncured for a period of fifteen (15) business days following written notice thereof. Without limiting the foregoing, either party may terminate this Agreement at any time for convenience upon not less than thirty (30) days' prior written notice, provided that such termination shall not relieve a Party of any obligation which accrued prior to the effective time of the termination (including, in the case of Reseller Opportunities, Reseller's sales, service and support obligations for sales closed prior to the termination, and in the case of Reseller Opportunities, Rampiva's obligation to pay sales commissions for sales identified prior to termination and closed within the applicable 180-day period)
- 2.4 Survival. Unless by its nature a provision cannot survive this Agreement, the provisions of this Agreement shall survive the expiration or any termination of this Agreement.

3 PAYMENT AND FEES

- 3.1 License Fee and Other Fees. With respect to Reseller Opportunities awarded to Reseller (as set forth on Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference), Reseller will invoice End Users and will be responsible for collecting the amounts due. Upon acceptance of a quote, Rampiva will invoice Reseller and Reseller will pay the invoiced amount within thirty (30) days of the issuance of the invoice. Reseller acknowledges that it assumes the risk of non-payment by the End User. Reseller shall be invoiced at the applicable Reseller Discount. From time to time, Rampiva may (but it not required to) provide additional discounts, such as time-limited promotional discounts.
- 3.2 Referral Commission. With respect to Referral Opportunities awarded to Reseller (as set forth on Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference), referral commissions will be paid within 30 days of Rampiva collecting revenue from the end client.
- 3.3 Taxes. The license fees and any other amounts payable pursuant to the terms and conditions herein are exclusive of any taxes or duties, now in force or enacted in the future. To the extent that any such taxes or duties are payable by Rampiva, Reseller shall be solely responsible for such taxes and duties and must pay the amount of such taxes or duties in addition to any fees owed under this Agreement.
- 3.4 On reasonable notice during the term and for one (1) year thereafter, Reseller shall make available for audit and inspection by Rampiva or its representatives all files in Reseller's possession or control relating to any production, marketing, inventory, sale, licensing, or other transactions of or relating

to the Products. Rampiva may conduct any audit or inspection under this Section 3.4 at any time during regular business hours and no more frequently than semi-annually. Reseller shall provide reasonable cooperation and assistance in connection with all such audits and inspections and make appropriate Reseller personnel available for this purpose.

- 4 SUPPORT AND MAINTENANCE. To the extent Reseller is awarded one or more “Reseller Opportunities” described in Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference, Reseller shall be solely responsible for providing all support services, installation and all pre/post-sales related activities to the End User during the term of the applicable End User license. With respect to other opportunities, Rampiva will provide support and maintenance services in accordance with its policies as in effect from time to time.
- 5 INTELLECTUAL PROPERTY RIGHTS.
 - 5.1 All title, Intellectual Property Rights in and to the Product (including but not limited to any code, images, photographs, clipart, libraries, and examples incorporated into the Product), the accompanying Documentation and other materials, and any copies of the Product are owned by Rampiva, with the exception of the third-party open source libraries/files provided with the Product. Nothing in this Agreement, or the negotiation or performance thereof, shall be construed as transferring to Reseller or any other party any IP or other proprietary rights of Rampiva or its third-party vendors. All rights not expressly granted hereunder are reserved by Rampiva. Reseller hereby unconditionally and irrevocably assigns to Rampiva Reseller’s entire right, title, and interest in and to any Intellectual Property Rights that Reseller may acquire in or relating to any of the Products (including any rights in derivative works or improvements relating thereto), whether acquired by operation of law, contract, assignment, or otherwise.
 - 5.2 Grant of Trade-Mark License. Subject to the terms of this Agreement, Rampiva hereby grants to Reseller, and Reseller hereby accepts, a non-exclusive, limited, non-transferable, non-sublicenseable license in the Markets to reproduce and display the specific registered and unregistered trade-marks, trade names, logos and designs listed in Schedule B (the "Trade-marks"), solely for the purposes of promoting, marketing and distributing the Products in accordance with the terms of this Agreement. Reseller agrees to ensure that all Rampiva proprietary notices, including copyright, trade-mark and patent notices are not removed from and are displayed on each unit of the Products.
 - 5.3 Restrictions on Use of Trade-marks. Reseller shall promote, market and distribute the Products only under the Trade-marks. Reseller shall not Modify the Trade-marks or sub-license the Trade-mark license in Section 5.2 above in whole or in part. All use of Rampiva's Trade-marks shall be in compliance with the quality controls and related standards (if any) as set out in Schedule B to this Agreement. Reseller shall not, during the term or after the expiry or termination of this Agreement, without the prior written consent of Rampiva, use or adopt any name, trade name, trading style or commercial designation that includes or is similar to or may be mistaken for or confused with the whole or any part of the Trade-marks or any business name, trade name, trade-mark or logo used by Rampiva.
- 6 REPRESENTATIONS. Reseller shall not make any representations to the End Users about the quality, capabilities, or reliability of the Products other than the representations contained in the

Documentation, and shall make no representations, warranties, or commitments, express or implied, which purport to bind, or do bind, Rampiva. Reseller will conduct itself in an ethical, professional and lawful manner, will exercise its best efforts to achieve a high level of customer satisfaction, and will refrain from doing anything to impair the reputation of Rampiva. Reseller will only offer, sell and provide Products to End Users pursuant to and subject to such End User's agreement to be bound by the Software End User License Agreement (available at: <https://rampiva.com/legal/eula.pdf>), as the same may be updated from time to time. Reseller shall not, and shall not permit any of its personnel, authorized users, or third parties to modify, create a derivative work of, clone, reverse engineer, decompile, disassemble or in any other way try to gain access to information regarding the construction of the Product, or to develop a product or service competing with the Product.

- 7 NON-DISCLOSURE. Both Parties recognize that each Party may obtain proprietary and/or Confidential Information of the other Party in the course of their business and fulfilling their respective obligations and exercising their respective rights under this Agreement. Each Party agrees to protect each other's Confidential Information as follows:
 - 7.1 Time and Method. Both during the term of this Agreement and thereafter, to hold each other's Confidential Information in confidence and to protect the disclosed Confidential Information by using the same degree of care to prevent the unauthorized use, dissemination or publication of the Confidential Information as they use to protect their own confidential information of a like nature, but in no event less than a commercially reasonable standard of care.
 - 7.2 Permitted Disclosure to Employees. Each Party agrees that it will only disclose Confidential Information to its employees, officers, directors, managers, contractors, professional advisors and representatives and agents who have a bona fide need to know and who are bound by agreement or by law or professional standards to keep such information confidential.
 - 7.3 Other Permitted Disclosures. Each Party may disclose Confidential Information (a) as authorized by the other Party in writing or (b) to the extent required by applicable law, court, or government/administrative/regulatory agency, or pursuant to applicable professional standards, provided that the Party required to disclose Confidential Information promptly notifies the other Party to the extent permitted by law and cooperates with any efforts by the other Party, at the other Party's expense, to limit such disclosure by means of seeking a protective order or requesting confidential treatment.
- 8 NO WARRANTY AND DISCLAIMER.
 - 8.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, RAMPIVA DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. RAMPIVA DOES NOT WARRANT THAT THE PRODUCT IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION.
 - 8.2 IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE PRODUCT, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO THE DURATION OF THE TERM.
 - 8.3 NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY RAMPIVA, ITS DEALERS, DISTRIBUTORS, AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY PROVIDED HEREIN.
 - 8.4 Remedy. If the Product does not perform in accordance with any warranty implied by law that cannot be excluded as provided in Section 8, and Reseller provides written notice to Rampiva during

the applicable warranty period, Rampiva's entire liability and Reseller's sole and exclusive remedy will be for Rampiva to either (at Rampiva's option) correct, repair or replace the Product or refund a prorated (based upon the time remaining in the license term) portion of the applicable license fee. Any corrected, repaired or replaced Product will be warranted for the remainder of the original warranty period.

- 8.5 Exclusions. To the extent permitted by applicable laws, no warranty will apply to the Product if: (a) Licensee has previously used the Product pursuant to a demo, evaluation, or trial period; (b) the issue relates to use of a pre-release preview version of the Software or Scripts; (c) Licensee has used the Software other than in accordance with the Documentation; (d) the Software has been modified in any way without Rampiva's prior written consent; (e) the issue relates to the incorrect installation of the Software; (f) the issue relates to the nature, use or operation of hardware; (g) the issue relates to any third party software; (h) Licensee has used the Software in contravention of any law, treaty, regulation, or convention; or (i) Licensee has breached any of the terms of this Agreement.

9 LIMITATION OF LIABILITY.

- 9.1 IN NO EVENT WILL RAMPIVA BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR OTHER DAMAGES OR LOSSES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, DATA, GOODWILL OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT, THE USE OR INABILITY TO USE THE PRODUCT, PROBLEMS WITH THE PRODUCT, UNAUTHORIZED ACCESS OR HACKING INTO THE PRODUCT, OR ANY BREACH OF RAMPIVA'S WARRANTIES OR OBLIGATIONS, EVEN IF SUCH DAMAGES OR LOSSES WERE FORESEEABLE OR PRODUCT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, AND RESELLER WAIVES, RELEASES AND AGREES NOT TO ASSERT ALL SUCH CLAIMS.

- 9.2 TO THE EXTENT PERMITTED BY APPLICABLE LAW, RAMPIVA'S AGGREGATE TOTAL MONETARY LIABILITY TO RESELLER IN RESPECT OF EACH SEPARATE CAUSE OF ACTION HEREUNDER, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING BUT NOT LIMITED TO STATUTORY, TORT, STRICT LIABILITY, WARRANTY, CONTRIBUTION, AND CONTRACT THEORIES) WILL BE LIMITED TO THE TOTAL FEES PAID BY THE RESELLER TO RAMPIVA (OR BY RAMPIVA TO RESELLER, IF THE CONTEXT SO REQUIRES) UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTHS OF THE SUBSCRIPTION PERIOD DURING WHICH THE APPLICABLE EVENT GIVING RISE TO THE CLAIM AROSE.

- 10 Reseller shall indemnify, defend, and hold harmless Rampiva and its affiliates and their respective officers, directors, employees, agents, members, managers, successors, and assigns (each, a "Indemnatee") from and against any and all claims, liabilities, expenses or losses incurred by the Indemnatee resulting from any third-party claim, action or proceeding relating to any Products, provided that Rampiva will have the right, at its option, to defend itself against any such third-party claim or to participate in the defense thereof by counsel of its own choice.

- 11 Force Majeure. Rampiva is not liable hereunder by reasons of failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, war, acts of terrorism, fires, flood, storm, explosions, earthquakes, Acts of God, government action, labor conditions, or any other cause which is beyond its control.

- 12 Notices. All notices, requests, consents, claims, demands, waivers and other communications

hereunder shall be in writing and in English language, and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) on the date sent by e-mail with confirmation of transmission if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (c) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Party at the address set forth on the Schedule A or a Transaction Reseller Agreement which includes this Agreement by reference (or to such other address that may be designated by a Party from time to time in accordance with this section).

- 13 NO WAIVER. No action taken by either Party pursuant to this Agreement, and no waiver by either Party, whether express or implied, of any provision or right in this Agreement or any breach thereof, and no failure of either Party to exercise or enforce any of its rights under this Agreement, will constitute a continuing waiver with respect too such provision or right or as a breach or waiver or any other provision or right, whether or not similar.
- 14 SEVERABILITY. If any covenant or provision of the Agreement is determined to be void or unenforceable in whole or part, then such void or unenforceable covenant or provision shall be deleted from this Agreement and shall not affect or impair the enforceability or validity of any other covenant or provision of this Agreement or any part thereof.
- 15 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Delaware, without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction).
- 16 ENTIRE AGREEMENT. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be modified only in a writing signed by both Parties, and shall be enforceable in accordance with its terms when signed by both Parties.
- 17 AUTHORITY. Each Party represents and warrants to the other Party that it has the full power and authority to enter into this Agreement, to grant and assign the rights herein granted and assigned. and carry out its obligations.
- 18 Relationship of the Parties. The Parties to this Agreement are independent contractors and nothing in this Agreement will be deemed or construed as creating a joint venture, partnership, agency relationship, franchise, or business opportunity between the Parties. Neither Party, by virtue of this Agreement, will have any right, power, or authority to act or create an obligation, express or implied, on behalf of the other Party.
- 19 Assignment. Reseller may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without the prior written consent of Rampiva. Any purported assignment, transfer, or delegation in violation of this Section is null and void. No assignment, transfer, or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted successors and assigns.

20 Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.