

# **TERMS & CONDITIONS OF LICENSE**

## **WARNING - LEGAL AGREEMENT – VERSION 11-1-2015**

Please carefully read the following legal agreement regarding your use of the Resort Data Processing (RDP) software product. By installing, copying, downloading, accessing or otherwise using the RDP software product you agree to be bound by the terms of this agreement. If you do not agree with this agreement, return the system to RDP prior to installation and RDP will refund your purchase price.

## **NO REFUNDS**

RDP does not offer refunds on the purchase of any RDP product.

## **RECITALS**

It is understood that RDP is in the business of developing and licensing computer programs and related materials; and you, an end user, desire to obtain the benefits of the RDP product, and by using the RDP product you agree to abide by the terms of this agreement. Therefore, subject to the following terms and conditions, RDP grants to you a non-transferable license to use the RDP product only as indicated below.

## **NON-TRANSFERABLE LICENSE**

Federal common law provides that copyright licenses are unassignable absent express language to the contrary. The RDP license covered by this agreement is non-transferable without payment of a license transfer fee to RDP. The amount of the fee varies based on many factors and is determined by RDP at the time of transfer. A transfer is defined in the very broadest terms, and includes a merger, acquisition, stock purchase, and corporate restructuring.

## **OWNERSHIP**

You understand that RDP is the owner of the software product and by accepting this license you do not become an owner, however you do have the right to use the RDP product as defined by this agreement. This license is perpetual, subject only to RDP's termination rights set forth in this agreement.

## **SYSTEM REGISTRATION REQUIRED**

Each module in the system must be registered with RDP after installation. If any module is not registered the entire system will automatically stop functioning. RDP reserves the right to not register any module if payment is not received in full. To view the installed modules and registration dates, start RDPWin and login. Then click the "modules" link in the navigation area.

## **PURCHASE ON INSTALLMENT BASIS**

You may have purchased this RDP license on the understanding that the purchase price includes future installment payments to be made by you to RDP. You are hereby warned that the RDP product has been designed to stop functioning if the future payments are not paid to RDP.

## **COPYING RESTRICTIONS**

Your license is limited to the use of only a single copy of the RDP programs installed on one computer, accessing a single RDP database. Additional RDP licenses must be purchased for each additional RDP database accessed by the RDP programs. If the multi-user version of the software product is purchased, you may install the single copy of the RDP programs on a Windows server. You may then access this single copy of the programs, accessing the same RDP database, from an unlimited number of workstations.

Unauthorized copying of the RDP product (including products that have been modified, merged, or included with other software) and the acquisition and use of unauthorized copies of the RDP product may subject you to both criminal and civil prosecution resulting in your having to pay fines, damages, and RDP's attorneys' fees. RDP has the right to terminate the license created by this agreement and to take legal action if the terms of this agreement are breached. RDP has the right to trace serial numbers at any time and in any reasonable manner.

## **SYSTEM BACKUP**

You may make a backup copy of the RDP programs and database to tape or other electronic device for archival purposes and system recovery. It cannot be too strongly emphasized that you should backup your entire system each day. All systems can lose data for various reasons, such as power failure, hardware faults, electro-magnetic interference, and other factors. Daily backup will help allow recovery from system problems.

## **PROPRIETARY RIGHTS OF RDP & NON-DISCLOSURE**

- a) The RDP logo, product names, software manuals, help screens, and other support materials are either patented, copyrighted, trademarked by or proprietary to RDP. You agree not to remove any product identification or notices of proprietary restriction from the RDP product. RDP retains exclusive ownership of RDP software, of RDP printed materials, and of RDP trademarks including, but not limited to, Condominium Control System (CCS), Timeshare Condominium System (TCS), Hotel Control System (HCS), Internet Reservation Module (IRM), RDPWin, and all modules of such RDP products. You agree not to disassemble or otherwise reverse engineer RDP software. All techniques, algorithms, and processes contained in RDP's products or any modification or extraction thereof constitute trade secrets and/or proprietary information of RDP and will be protected by you.
- b) You agree to maintain the RDP product in confidence and not to disclose same to third parties except as may be necessary to conduct your business affairs, and as to those to whom you do disclose the within product in accordance herewith, you agree to obtain their written agreement of confidence and nondisclosure along the lines of this provision.

## **RDP PROPOSAL**

The final RDP proposal defines many aspects of the system, including installation terms, purchase price, list of modules, training hours, travel costs, initial support period, etc. This proposal is a legally binding document subject to these terms and conditions of sale.

## **LIMITATIONS ON THE MAXIMUM NUMBER OF UNITS**

The RDP product is restricted in the total number of units the system may accommodate. Your proposal lists the number of units your system can manage. If you require a system that can manage more units, an upgraded license is available from RDP at an additional cost.

## **CHOICE OF LAW**

When this agreement is accepted and agreed to in the United States it shall be interpreted in accordance with the laws of the State of Colorado. Otherwise, this agreement will be interpreted in accordance with the laws of the United States or such other law as may be required to protect the legitimate interests of RDP. Should any action be commenced by you concerning the terms and conditions of this agreement or the obligations and duties of RDP hereunder, you stipulate and irrevocably agree that you shall file any such action only in the appropriate court within the County of Eagle, State of Colorado. Should any action be commenced by RDP concerning your obligations and duties hereunder, you hereby confer In Personam jurisdiction over you to the appropriate court within the County of Eagle, State of Colorado.

## **DISCLAIMER OF SOFTWARE WARRANTIES AND LIABILITIES**

- a) RDP warrants that the product will perform substantially in accordance with the written materials contained in our product brochure, help system and website ([www.resortdata.com](http://www.resortdata.com)). If a customer support agreement is purchased, product updates will be provided that will change the performance of the system. Features in the current system may not exist in future versions.
- b) The user should recognize that the RDP product, as well as all business application software, is inherently complex and users are cautioned to verify the results of their work. RDP cannot and does not warrant that the functions contained in the within product will meet your requirements or that the operation will be uninterrupted or error-free.
- c) RDP software is distributed and licensed "as is". RDP does not provide product technical support, product enhancements or bug fixes unless a Support Contract is purchased.

### **No Other Warranties**

**To the maximum extent permitted by applicable law, RDP disclaims all other warranties and conditions, either express or implied, including but not limited to, implied warranties or conditions of merchantability, fitness for a particular purpose, title and non-infringement, and the provision of or failure to provide support services.**

### **Limitations of Liability**

**To the maximum extent permitted by applicable law, in no event shall RDP be liable for any special, incidental, indirect, or consequential damages whatsoever. This includes without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss arising out of the use of or inability to use the RDP product, or the failure to provide support services. In any case, RDP's liability shall be limited to the price you paid to RDP for the RDP Software product.**

## **TERMINATION FOR BREACH**

If any one or more of the terms and conditions of this agreement are breached, the license granted by this agreement is hereby terminated. Nevertheless, in the event of such termination, all the provisions of this agreement which operate to protect the rights of RDP shall continue in full force and effect.

## **INDEMNIFICATION**

In the event that you did not purchase or otherwise acquire the within RDP product from RDP directly, you acknowledge your understanding that the person or firm from which you purchased or otherwise acquired the within product is not an agent or employee of RDP and as such, you waive any and all rights that you may have to claim that RDP is in any manner responsible for any disputes that you might have with RDP arising from your dealings with such person or firm on a theory of respondent superior or any other legal theory, and you agree to indemnify and hold RDP harmless of and from any such claim of liability.

RDP does not Indemnify or hold you entirely free and harmless from claims and actions made or brought by third parties against you regarding any aspect of the RDP product licensed hereby.

## **SUPPORT CONTRACT**

RDP software is distributed and licensed "as is". However, RDP does provide technical support, product enhancements, and bug fixes as part of the purchase of a support contract. The length of time of initial technical support contract included for your system is specified in the RDP proposal. After the initial support contract technical support can be purchased on a yearly basis for the price detailed in the proposal. The limitations of the support contract, both for the initial contract period and any renewals, are detailed in the "RDP Support Agreement."

If a business hours support contract is purchased, you may also purchase after hours emergency support, available 365 days a year on a "per call" or "unlimited call" basis. In either case, after hours support is limited to calls of an "emergency nature". RDP allows considerable latitude when determining what an emergency is, however we do not want our after-hours support personnel working on a minor problem for one customer when another customer may have a critical issue to solve.

## **LEGAL FEES**

In the event that legal action is brought by either party concerning the interpretation of this agreement or the obligations or duties of RDP or your obligations or duties, the prevailing party shall be entitled to reimbursement of legal fees and court costs fixed by the court in any said action.

## **EVALUATION SYSTEM LIMITATIONS**

You understand and agree that if you purchased or otherwise acquired the evaluation system of the RDP product that the same will only function within a very limited span of operational dates. The production system must be purchased from RDP. All production systems must be registered with RDP after installation or they will cease to function.

## **PRE-INSTALLATION WARNING**

In some cases RDP will pre-install software prior to shipment, including the entry of data specific to your application. This pre-installation is designed to allow the user to become productive with the RDP product more quickly. While RDP makes a "best efforts" attempt to verify all data entered, it is very likely that data entry errors will occur. The user is specifically warned to verify all data entered by RDP. It is your responsibility to verify that the data entered by RDP is correct.