

Please Note

1. Read Reseller Agreement
2. Fill out and sign pages 1,7, and 9
3. Sign all pages with your initials to confirm you've read each page
4. Fax back pages 1-9



E-mail to: sales@videofied.com or fax to: (651) 762-4693

You can press "Tab" through all fields to type in information (except signature)

RESELLER AGREEMENT

RESELLER AGREEMENT, made as of _____, 20__, between **RSI Video Technologies, Inc.**, a Delaware corporation, with a place of business at 4455 White Bear Parkway, Suite 700, White Bear Lake, Minnesota 55110 ("**RSI**"), and _____, a _____ corporation, with a place of business at _____ ("**Reseller**").

WHEREAS, RSI wishes to appoint Reseller as a non-exclusive reseller for the Products identified in **Addendum A** (the "**Products**"), and Reseller desires to be so appointed, all in accordance with and subject to the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. **APPOINTMENT.** Subject to the terms set out in this Agreement: (a) RSI appoints Reseller as a non-exclusive reseller of Products for resale only to end-users and to no other parties; and (b) Reseller accepts such appointment and agrees to the terms and conditions of this Agreement.

2. **ORDER PROCEDURE; PRICE, PAYMENT.**

2.1 **Orders.** Reseller may purchase Products from RSI from time to time by issuing to RSI a purchase order specifying the Product, the quantity, and the requested delivery date; no other terms in any such purchase order or any other form offered by Reseller shall be deemed to be of any effect between the parties. RSI may, in its sole discretion, elect to accept or reject any such purchase order.

2.2 **Price.** The purchase price for all Products shall be as set out on **Addendum B**, which may be changed from time to time by RSI, in its sole discretion, upon written notice to Reseller.

2.3 **Payment.** Payment for Products shall be due in full thirty days after shipment by RSI. Payment shall be in cash, in U.S. dollars. If, at any time, Reseller's account balance with RSI extends beyond thirty days, RSI may, in its sole discretion, either (a) ship Products to Reseller on a C.O.D. or C.O.D. plus basis until the account is paid in full; or (b) refuse to ship Products to Reseller until the account is paid in full.

2.4 **Taxes, Duties and Tariffs.** All prices are exclusive of any present or future federal, state, provincial, local or other governmental taxes, duties and tariffs applicable to the sale, transportation or use of Products purchased under this Agreement, all of which taxes, duties and tariffs shall be paid by Reseller.

2.5 **Security Interest.** Reseller hereby grants to RSI, and RSI reserves, a purchase money security interest in each Product sold by RSI to Reseller in the amount of its purchase price. Reseller agrees to execute any and all such other documents, including financing statements, as may be necessary for RSI to perfect such security interest. Notwithstanding the foregoing, a copy of this Agreement may be filed as a financing statement on behalf of RSI in the appropriate public office to perfect a security interest.

2.6 **Delivery, Title and Risk of Loss.** All prices for Products under this Agreement are F.O.B. shipping point. Reseller shall pay all freight charges. Title to product and risk of loss shall transfer to Reseller upon delivery of Products to a common carrier or other authorized agent of Reseller.

2.7 **Delivery.** RSI shall use its commercially reasonable efforts to deliver all Products ordered by Reseller as soon as reasonably practicable, and to treat Reseller no less favorably than it treats other RSI dealers in that regard. In the event of interruption of any such delivery due to causes beyond the reasonable control of RSI, including but not limited to fire, labor disturbances, riots, accidents, inability to obtain necessary materials or components, RSI shall have the right, in its sole discretion, and upon oral or written notice to Reseller, to delay or cancel such delivery. Upon receipt of such notice, Reseller shall have the option to change or cancel such orders.

2.8 **Resale.** Reseller agrees that it will not resell any Product at any time for a net price that is less than the then effective list price for such Product as determined by RSI, which list price RSI may, at its sole election, change from time to time.

3. **LIMITED WARRANTY.**

3.1 **Warranty.** RSI warrants to Reseller that Products furnished hereunder will be free from defects in material and workmanship for two years from date of manufacture. Reseller may not assign this warranty to any person or entity, and no other person or entity shall have the benefit of it. Except as set forth in Section 4 below, the foregoing warranty is exclusive and in lieu of all other warranties, whether written, oral, implied or statutory. **RSI DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.** This warranty does not apply to any claim arising from or related to normal wear and tear, catastrophe, fault or negligence of a party other than RSI, improper installation, application, storage, maintenance or use of Products, or other causes external to products, or failure to conform to any applicable recommendations of RSI. The warranty does not apply to batteries of any type used in connection with the Products.

3.2 **Limited Remedy.** If any Product fails to meet the foregoing limited warranty, RSI shall, at its option, correct any such failure (a) by repairing any defective or damaged part or parts of the Product, or (b) by making available, F.O.B. RSI's plant, any necessary repaired or replacement parts. RSI reserves the right to replace any Product under the warranty with new or remanufactured Product or parts. RSI is not responsible for labor costs of removal or reinstallation of Products. RSI warrants that any repaired or replaced Product shall satisfy the warranty set out in Section 3.1 for the balance of the term of the warranty under Section 3.1 for the initial Product or for ninety days, whichever is longer.

3.3 **Procedure.** To assert a warranty claim: (a) Reseller must contact RSI Customer Service at 1-877-206-5800 and request authorization to return the Product, upon which RSI Customer Service shall issue Reseller a Return Merchandise Authorization ("**RMA**") number; and (b) Reseller shall return the Product, freight prepaid, to RSI, together with reference to the RMA number and a written explanation setting forth the potential defect in reasonable detail.

3.4 **Exclusive Remedy.** The preceding remedy is the exclusive remedies for claims based on any defect, failure, malfunction, or any other performance or non-performance of any

Product, whether the claim is in contract, indemnity, warranty, tort (including alleged negligence by RSI), strict liability or otherwise, and however instituted. Upon the expiration of the applicable limited warranty period, any liability of RSI in connection with such exclusive remedies shall terminate.

3.5 **Nuclear Facilities and Activities.** The Products are not intended for use in connection with any nuclear facility or activity. RSI disclaims all liability for any damage, injury or contamination arising from or related to such use, and Reseller shall indemnify RSI against any such liability, whether as a result of breach of contract, warranty, tort (including negligence and strict liability) or otherwise.

4. **PATENTS.** Subject to the provisions of this section, RSI warrants that the Products shall be free of any rightful claim of any third party for infringement of any United States patent. This warranty shall not apply to any Product or part specified by Reseller or manufactured to Reseller's design, or to the use of any Product furnished hereunder in conjunction with any other product in a combination not furnished by RSI; as to any such Product or product, part, or use in such combination, RSI assumes no liability whatsoever for patent infringement and Reseller will hold RSI harmless against any infringement claims arising therefrom. If notified promptly by Reseller in writing and given authority, information and assistance, and contingent upon Reseller not taking any position adverse to RSI in connection with such claim, RSI shall defend, or may settle, at its expense, any suit or proceeding against Reseller so far as based on a claimed infringement which would result in a breach of the warranty stated in this section and RSI shall pay all damages and costs awarded therein against Reseller due to such breach. In case any Product or part thereof is in such suit held to constitute such an infringement and the use for the purpose intended of said Product or part is enjoined, RSI shall, at its expense and option, either procure for Reseller the right to continue using said Product or part, or replace same with a non-infringing product or part, or modify same so it becomes non-infringing, or remove the Product and refund the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by Reseller. The foregoing states the entire liability of RSI for patent infringement by the Products or any part thereof.

5. **LIMITATION OF LIABILITY.** RSI's liability to Reseller on any claim of any kind, whether as a result of breach of contract, warranty, indemnity, tort (including negligence and strict liability) or otherwise, for any loss or damage arising out of, connected with, or resulting from this Agreement, or from RSI's performance or breach thereof, or from the design, manufacture, sale, resale, installation, repair, operation or use of any Products furnished under this Agreement, shall in no event (except as specifically provided in Section 4) exceed the price paid by Reseller for the specific Product(s) which give rise to the claim. Any such liability of RSI shall terminate upon the expiration of the applicable warranty period. In no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence and strict liability) or otherwise, shall RSI or its suppliers be liable for any special, consequential, incidental or penal damages, including, but not limited to, loss of profit or revenues, loss of use of the products or any associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities or services, down time costs, or claims of Reseller's customer for such damage.

6. **RSI TRADEMARKS.** Reseller acknowledges that the word "RSI Video Technologies" is a trade name of RSI, and that the marks "RSI Video Technologies," "RSI," and "Videofied," "MotionViewer" and the "Eye" logo are trademarks owned by RSI and its affiliates. Reseller shall

have no license or other right, title, or interest to use such trademarks, or any other trademark, service mark, or trade name that is now or hereafter owned by RSI. Without limiting the foregoing, Reseller specifically agrees that it will not, in any manner, use the words "RSI Video Technologies," "RSI," "Videofied," or "MotionViewer" or any imitation or variant thereof as part of Reseller's trade name, company, or firm name.

7. OBLIGATIONS OF RESELLER.

7.1 **Exclusive Use of Products.** For so long as Reseller submits orders hereunder, and until the 30th day after the date of shipment by RSI of Products under the last such order, Reseller shall not offer or sell products other than the Products to end-users for any security product installation for which the Products are suitable. Reseller shall not act as a reseller for products that compete with the Products.

7.2 **Installation.** Reseller shall install Products at the request of the end-user, for a price established by Reseller, in a workmanlike fashion in accordance with the installation instructions provided by RSI and generally accepted procedures in the industry for the professional installation of security systems. Reseller represents that its installation and technical personnel will meet any appropriate or required training and certification requirements for the state where Products are being installed.

7.3 **Business Conduct.** Reseller shall conduct its business in compliance with all applicable federal, state and local laws and regulations, and with any policies provided by RSI to Reseller.

7.4 **Name and Offices.** Reseller shall conduct business in its own name and maintain such offices as shall be necessary for performance of Reseller's obligations under this Agreement.

7.5 **Insurance.** Reseller shall obtain and at all times maintain, at its sole cost and expense: (a) commercial general liability insurance for bodily injury and property damage, including loss of use thereof, in the minimum amount of One Million and No/100 Dollars (\$1,000,000) per occurrence, including coverage for products liability and completed operations; and (b) errors and omissions liability insurance in the minimum amount of One Million and No/100 Dollars (\$1,000,000) per occurrence. Reseller shall provide proof of such coverage in the form of a certificate(s) of insurance delivered to RSI at the time of execution of this Agreement and from time to time thereafter upon request by RSI. The certificate(s) of insurance shall provide that RSI will receive at least thirty days' prior written notice of any modification, cancellation or non-renewal of such policy.

8. **TRAINING AND TECHNICAL SUPPORT.** RSI shall provide reasonable sales and installation training to Reseller's personnel related to the Products, and technical support to Reseller's personnel related to the same via telephone and e-mail, under the terms and conditions established by RSI from time to time for the provision of such training and technical support.

9. **INDEMNIFICATION.** Reseller shall indemnify, defend and hold RSI and its legal representatives, agents, employees, officers, directors, divisions, subsidiaries, affiliates, parents, and their successors and assigns (collectively, the "Indemnified Parties"), harmless from and against any loss, claim, liability, damage or expense (including reasonable legal expenses and costs) that the Indemnified Parties, or any of them, may suffer, sustain or become subject to, as a result of any

alleged act, omission or obligation of or by Reseller or Reseller's agents arising out of (a) the sale, installation, maintenance and/or monitoring of Products; (b) Reseller's operation of its business pursuant to this Agreement; or (c) any alleged breach by Reseller of any provision of this Agreement. Reseller will reimburse the Indemnified Parties, or any of them, for all expenses (including reasonable legal expenses and costs) as they are incurred in connection with investigating or defending any such action or claim, whether or not in connection with pending or threatened litigation in which the entity is a party. Reseller agrees not to interpose any claim, counterclaim, cross-claim or third party claim against the Indemnified Parties, or any of them, in the event any claim, action or proceeding is threatened or commenced against Reseller arising out of (i) the sale, installation, maintenance and/or monitoring of Products; (ii) Reseller's operation of its business pursuant to this Agreement; or (iii) any alleged breach by Reseller of any provision of this Agreement. The provisions of this Section 9 shall inure to the benefit of and apply to all Indemnified parties and each of their present and future legal representatives, agents, employees, officers, directors, divisions, subsidiaries, affiliates, parents, and their successors and permitted assigns, and shall be enforced to the fullest extent permitted by law and be interpreted and applied to a lesser extent, where necessary to be valid.

10. CONFIDENTIALITY. Reseller acknowledges and agrees that the trade secrets, financial information, manufacturing processes, processing steps, systems, improvements, methods, marketing information, educational program information and other documents and information relating to RSI and/or to the preparation, manufacture and/or use of Products, together with all special knowledge about RSI and/or Products which Reseller, its employees, agents or subcontractors may currently possess or come to acquire (hereinafter collectively referred to as the "Confidential Information"), are the sole property of RSI, absolutely and forever. Reseller further agrees that the Confidential Information shall for all time and for all purposes be regarded and kept as strictly confidential trade secrets, held in trust solely for the use and benefit of RSI, and that Reseller will not, at any time, either directly or indirectly use, duplicate, attempt to duplicate, divulge, make available and/or disclose any Confidential Information to any other person, entity, firm or corporation, now existing or hereafter formed, without RSI's prior written consent. Reseller acknowledges and agrees that a breach of the confidentially obligations contained herein would cause irreparable harm to RSI. Reseller consents, acknowledges and agrees that upon any such breach, RSI shall be entitled to and may obtain, in addition to any other remedy or remedies which may be available to it, an injunction or similar remedy from any court having jurisdiction with respect thereto permanently preventing any further or subsequent breach by Reseller and/or any of its employees, agents, subcontractors or any other persons over whom Reseller has control. Reseller further acknowledges and agrees that any and all Confidential Information provided to Reseller, together with any and all copies thereof and notes relating thereto, shall be returned to RSI upon demand by RSI. Notwithstanding any of the foregoing, Reseller acknowledges and agrees that RSI has no obligation under this Agreement to divulge Confidential Information to Reseller.

11. TERM. This Agreement shall be effective upon execution by both parties hereto. This Agreement may be terminated by RSI at any time: (a) in the event of a breach by Reseller of any of its obligations hereunder, upon delivery of a notice of termination to Reseller; and (b) in all other cases, thirty days after delivery by RSI to Reseller of a notice of termination.

12. MISCELLANEOUS.

12.1 Waiver and Modification. No waiver, modification or amendment of any term, condition or provision of this Agreement shall be valid, binding or of any effect unless made in writing, signed by both RSI and Reseller, and specifying with particularity the nature and extent of such waiver, modification or amendment.

12.2 Benefit. Except as otherwise provided herein, this Agreement shall inure to the benefit of and shall be binding upon parties hereto and their respective heirs, executors, administrators, representatives, successors and permitted assigns.

12.3 Assignability. Notwithstanding any other provision of this Agreement, Reseller shall have no right to assign, transfer, delegate, subcontract or grant to others or any right, duty or obligation under this Agreement, or any interest in or to this Agreement.

12.4 Headings. Section headings used herein are for convenience purposes only and shall in no way be construed to be a part of this Agreement or as a limitation of the scope of the particular sections to which they refer.

12.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but together which shall constitute one and the same instrument.

12.6 Interpretation and Severance. The provisions of this Agreement shall be applied and interpreted in a manner consistent with each other so as to carry out the purposes and intent of the parties hereto, but if for any reason any provision hereof is determined to be unenforceable or invalid, such provision or such part hereof as may be unenforceable or invalid shall be deemed severed from this Agreement, and the remaining provisions shall be carried out with the same force and effect as if the provision or part thereof had not been a part of this Agreement.

12.7 Governing Law. This Agreement shall be governed and construed exclusively in accordance with the laws of the State of Minnesota and, subject to Section 12.8, below, any proceedings for the enforcement hereof shall be brought in federal or state courts located in Minnesota. Reseller and RSI consent and submit to the jurisdiction of said courts and agree that service of process may be made by registered or certified mail, or in any manner provided under Minnesota or applicable federal law.

12.8 Arbitration. Except for (a) actions by RSI to collect amounts owed to RSI by Reseller pursuant to the terms and conditions of this Agreement and any purchase orders hereunder; and (b) claims by RSI for equitable relief in accordance with Section 12.10 below, all disputes, controversies or claims arising out of or in connection with this Agreement shall be settled by binding arbitration through the American Arbitration Association and in accordance with the Commercial Rules of the American Arbitration Association, which arbitration shall take place in the City of Arden Hills, Minnesota.

12.9 **Attorneys' Fees and Costs.** In the event RSI or Reseller shall prevail in any legal action, including arbitration or any bankruptcy proceeding including any motion for relief from the automatic stay under the U.S. Bankruptcy Code, arising under or relating to this Agreement, the prevailing party shall be entitled to recover from the other all of its costs and expenses, including without limitation, reasonable attorneys' fees and costs.

12.10 **Equitable Relief.** Reseller agrees that any breach of any of the terms or covenants of this Agreement will cause RSI irreparable harm for which there is no adequate remedy at law, and Reseller consents to the issuance of any injunction or other equitable relief in favor of RSI enjoining the breach of any such covenant or term. In no manner or effect shall this provision of this Agreement preclude RSI from exercising any right or remedy to which RSI may be entitled, at law or in equity, by reason of a breach by Reseller of any term or covenant of this Agreement.

12.11 **Entire Agreement.** This Agreement, including the attached addenda and documents expressly referred to herein, contains the entire agreement between RSI and Reseller, and supersedes and cancels any and all other agreements, whether oral or in writing, between RSI and Reseller with respect to purchase and sale of RSI products, including without limitation, any marketing or sale promotion materials, prior pricing agreements, agreements regarding discounts, agreements regarding sales territory, and agreements regarding credit terms, and any prior Reseller Agreement or similar agreement between the parties. It is the intention of the parties that this Agreement apply to and exclusively provide the terms and conditions on which any RSI products have previously been sold by RSI to the Reseller. Both Reseller and RSI hereby expressly and irrevocably reject any term or condition in any purchase order, confirmation or other document furnished by Reseller that is in any way inconsistent with or in addition to the terms and conditions of this Agreement.

12.12 **Notices.** Any notice required or permitted to be given hereunder shall be sent by (i) hand delivery, (ii) facsimile, (iii) electronic mail, (iv) overnight delivery, or (v) certified or registered mail, return receipt requested, postage prepaid, to the person and address set forth in this Section, as amended by either party by subsequent written notice to the other party. Notices shall be deemed to have been delivered on the date of transmission if by hand delivery, facsimile, or electronic mail; one day after depositing with an overnight delivery; and when received, if sent by certified or registered mail.

RSI Video Technologies, Inc.
4455 White Bear Parkway, Suite 700
White Bear Lake, MN 55110
Telephone: 877-206-5800
Fax: 651-762-4693
Attn: RSI Video Technologies®
RESELLER Program

Name: _____
Address: _____

Telephone: _____
Fax: _____
E-Mail: _____

Attention: _____

12.13 **Independent Contractors.** The parties understand and agree that nothing contained herein shall be deemed to create an employment, agency, franchise, or other relationship between Reseller and RSI for any purpose whatsoever, and that no relationship is intended or created hereby other than the relationship of independent contractors. Reseller shall have no right or authority to assume or create any obligation or responsibility, express or implied, on behalf of, on account of, or

in the name of RSI, or to legally bind RSI in any manner whatsoever. Reseller acknowledges and agrees that it is not a spokesperson for RSI and that Reseller shall not take any actions, or fail to take any actions that indicate to any third parties that Reseller is authorized to speak on behalf of RSI.

12.14 **Not a Franchise or Sales Representative Agreement.** This Agreement is not intended to be construed as a franchise or sales representative agreement under any present or future state or federal laws.

[THIS SPACE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

Reseller: _____

RSI Video Technologies, Inc.

By: _____
(Signature)

By: _____
(Signature)

Name _____
(Name Typed or Printed)

Name: _____
(Name Typed or Printed)

Title: _____

Title: _____

Date: _____

Date: _____

ADDENDUM A

Products

ADDENDUM B

Reseller Pricing