

RIMAGE CORPORATION PURCHASE ORDER TERMS AND CONDITIONS

1. Offer to Purchase; Entire Agreement. The Purchase Order that accompanies or refers to these Terms and Conditions (the "Order") constitutes an offer by **Rimage** and its affiliates ("**Rimage**") to purchase the hardware or software products ("Products") and/or services ("Services") described in the Order. The Order becomes a binding contract when **Supplier** accepts it by acknowledging or beginning performance of the Order. Upon acceptance by **Supplier**, the Order, including these Terms and Conditions and any related attachments, constitutes the entire agreement between the parties with respect to the transactions contemplated in the Order. **Rimage's** offer can only be accepted upon the terms of the Order, including these Terms and Conditions. No different, inconsistent, conflicting or additional terms or conditions **Supplier** may provide in accepting or acknowledging the Order or attempting to vary the pre-printed or posted form of these Terms and Conditions shall be valid or binding upon **Rimage** unless a Vice President or higher level officer of **Rimage** expressly accepts such terms or conditions in writing. If **Supplier** has previously made an offer to sell the goods described in the Order to **Rimage**, the Order is an acceptance of such offer only on the condition that **Supplier** agrees to all the terms and conditions set forth herein that may be in addition or different from the terms and conditions of such previous offer.

2. Warranties. **Supplier** represents and warrants that the Products, if applicable, (a) are the property of **Supplier** or that **Supplier** is properly licensed to grant to **Rimage** the rights granted to **Rimage** herein; (b) are free of any liens, claims or other encumbrances; (c) will be new; (d) will be free from defects in manufacture, materials, and design; (e) will function properly under ordinary use; (f) will perform in accordance with all applicable specifications and documentation for such Product for at least 38 months for hardware and 12 months for software from **Rimage's** acceptance thereof; (g) will be compatible with **Rimage's** hardware and standard operating systems and environments; (h) correctly process all date data; (i) are free from viruses; (j) comply with all applicable laws, regulations, codes and standards; and (k) do not contain any disabling codes or termination logic. **Supplier** represents and warrants that all Services shall (i) be performed in a timely, professional and workmanlike manner; (ii) comply with all applicable specifications and descriptions of such Services; and (iii) comply with all applicable laws and regulations, codes and standards. All equipment, materials, and articles used in the performance of the Services shall be of the most suitable grade for the purpose intended. In addition, **Rimage** will enjoy the benefit of **Supplier's** standard warranty for its Products to the extent such warranties do not conflict with or limit the warranties set forth in this Section.

3. Warranty Returns. **Supplier** accepts financial responsibility for all costs **Rimage** incurs in connection with the failure of a Product or Service to comply with any warranties set forth herein. If any Product shipped under the Order fails to meet any of the warranties set forth herein, in addition to other rights available to **Rimage** at law or in equity, **Rimage** reserves the right to cancel without liability all or any portion of the Order and return the Products to **Supplier**, at **Supplier's** expense, for credit to **Rimage's** account, refund or reimbursement. **Supplier** will issue a Return Material Authorization (RMA) number within 3 working days after request by **Rimage** for all returned Products. If **Supplier** fails to issue an RMA number in a timely manner, **Supplier** will accept an RMA number generated by **Rimage**.

4. Delivery; Packaging; Quantity. All Articles shall be suitably packed in a manner to secure safe delivery, to comply with carrier requirements, and to secure the lowest transportation and insurance rates. Each container must be packed, marked, tagged and shipped with an outer label that includes the applicable **Rimage** Order number and "Ship To" Attention information, be accompanied by one copy of the shipping papers, and be shipped in accordance with all instructions appearing on the Order. Unless otherwise specified in the Order, no value shall be declared on any shipment. Time is of the essence in the performance of the Order. **Supplier** agrees to work with **Rimage** to achieve the lowest landed cost for delivery of Products. Unless otherwise specified in the Order, **Supplier** shall arrange and pay all shipping and insurance costs related to the delivery of Products to locations specified by **Rimage**. A packing slip must accompany each shipment and, unless otherwise specified in the Order, be shipped FOB destination for domestic shipments or DDP (Incoterms 2010) **Rimage's** facility or as otherwise specified in the Order. **Supplier** shall also pay all storage and insurance costs if the Order indicates delivery to one of **Rimage's** distribution centers. If **Supplier** fails to deliver to **Rimage** within 10 days of the scheduled delivery date or deliver the quantity that appears in the Order, **Rimage** may cancel all or any portion of the Order without liability. **Supplier** shall be liable to **Rimage** for any cost **Rimage** incurs as a result of **Supplier's** failure to deliver, including the cost of expedited delivery. **Rimage** may reschedule the delivery date of the Order at any time prior to the date that **Supplier** ships such Order. **Rimage** shall have no obligation to accept any Products earlier than the delivery date specified in the Order.

5. Title and Risk of Loss; Acceptance by Rimage. Title and risk of loss to Products will pass to **Rimage** upon **Rimage's** acceptance of the Products. **Rimage** will have 30 days after receipt of the Products or completion of the Services to accept or reject a Product and/or Service. If **Rimage** rejects a Product and/or Service, it will notify **Supplier** of such rejection and will request directions as to the disposition of the Product or re-performance of the Service. **Rimage** reserves the right to require the **Supplier** to re-perform any Service that does not comply with any terms set forth herein, at no additional cost to **Rimage**. If **Supplier** fails to provide instructions for such disposition of Product, or fails to re-perform the Service within 10 days after receipt of notice from **Rimage**, **Rimage** may dispose of the Product in any manner it deems appropriate, and/or **Supplier** may be held liable for all costs incurred for the performance of the Service by an alternate **Supplier**.

6. Software and Documentation. **Supplier** grants to **Rimage** and independent contractors performing services on behalf of **Rimage** a non-exclusive, perpetual, worldwide, fully paid-up license to use, copy, sublicense, modify and

distribute (for software relating to or shipped with **Rimage** systems), any software Product delivered to **Rimage** as part of the Order or incorporated as part of any Product, and any related documentation delivered to **Rimage** under the Order. **Supplier** shall provide **Rimage**, at no additional charge, any updates, upgrades or new versions of software Products at least 30 days before **Supplier** releases such updates, upgrades or new versions to the general public. In addition, unless otherwise agreed upon by **Rimage** in writing, **Supplier** shall provide **Rimage** with maintenance and support 24 hours a day, 7 days a week.

7. Payment Terms. Unless otherwise specified in the Order, **Rimage** shall pay all invoices from **Supplier** for Products and Services provided pursuant to the Order within 60 days from the later of **Rimage**'s acceptance of Product or Service, or receipt of **Supplier**'s invoice. **Rimage** will receive a 2% discount off any invoiced amount if **Rimage** or its designated agent pays **Supplier** within 20 days of the later of receipt of the applicable invoice or **Rimage**'s acceptance of the Product or Service. **Supplier** will provide all invoices to **Rimage** within 60 days of the delivery of Product or the completion of Services, as applicable. **Supplier**'s invoices must include the **Rimage** Order Number or the invoices may be denied for payment. **Rimage** reserves the right to refuse payment for any invoice issued after the 60-day period.

8. Taxes. Unless otherwise specified in the Order, the prices set forth include all applicable taxes, import duties, customs clearance, applicable licenses, certifications, ratings and other authorizations and approvals (collectively, "Taxes"). All such Taxes shall be stated separately on **Supplier**'s invoice.

9. Safety. **Supplier** shall be responsible for all safety issues related to and during the performance of any Services and **Supplier**'s obligations hereunder. **Supplier** shall ensure that its employees and the employees of its approved subcontractors are notified of and observe and abide by all safety regulations and laws including, but not limited to, those issued by **Rimage**.

10. Changes. **Rimage** may make changes in the technical requirements, specifications, drawings or designs, materials, packaging, place of delivery, method of transportation, buyer-furnished property or quantities and delivery schedules by notifying **Supplier** in writing. Any effect on the costs or time required to perform due to such change will entitle **Supplier** to make a claim with **Rimage** for an adjustment in the price and delivery schedule as **Rimage** and **Supplier** mutually agree in writing. Any claim must be filed within 30 days after **Rimage** notifies **Supplier** of the change. **Supplier**'s failure to file a claim within 30 days will be deemed a waiver of all such claims.

11. Supplier's Employees. All personnel supplied or engaged by **Supplier** to perform **Supplier**'s obligations will be deemed employees or subcontractors of **Supplier** and will not be considered employees, agents, or subcontractors of **Rimage** for any purpose, including, but not limited to, the application of any federal or state unemployment or insurance laws or workers' compensation laws, or otherwise. **Supplier** hereby assumes all liabilities or obligations imposed by any one or more of such laws with respect to **Supplier**'s employees and subcontractors. **Supplier** assumes full responsibility for the actions of all employees and subcontractors performing **Supplier**'s obligations under the Order and for the payment of their compensation (including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes), worker's compensation, disability benefits and the like to the extent applicable to the personnel involved. By written notice, **Rimage** may require **Supplier** to immediately remove from providing a Service any employee or subcontractor of **Supplier** that **Rimage** deems objectionable for any legal reason.

12. Intellectual Property Rights. **Supplier** represents and warrants that all Products delivered and Services performed pursuant to the Order, and the sale or use thereof by **Rimage**, including use in any foreseeable combination with other products, do not infringe any patent, trade secret, copyright, trademark, or other intellectual property right of any third party. If **Rimage** is enjoined from using or selling a Product or Service, in addition to any other remedies available to **Rimage** at law or in equity and the indemnity described in Section 13 below, **Supplier** shall, at its expense, either (i) replace or modify the infringing portion of the Product or Service so it becomes non-infringing, yet functionally equivalent; (ii) procure for **Rimage** the right to continue to use the infringing Product or Service; or (iii) refund all fees paid by **Rimage**.

13. Indemnity. **Supplier** shall indemnify, defend and hold **Rimage** harmless from and against any and all claims, demands, damages, liability, loss, cost, expense and attorney's fees which **Rimage** may incur, suffer or be required to pay arising out of or related to the Products or Services delivered pursuant to the Order or **Supplier**'s performance or non-performance under the Order or these Terms and Conditions, including but not limited to any actual or alleged breach of **Supplier**'s representations or warranties. **Supplier** shall also reimburse **Rimage** for any and all expenses and costs (including attorneys' fees) incurred in enforcing any provision of the Order or these Terms and Conditions.

14. Insurance. **Supplier** shall maintain commercial general liability, product liability, professional liability, automobile liability, property damage, and worker's compensation and employer's liability insurance coverage with limits of liability sufficient to cover its obligations under the Order or as **Rimage** may reasonably specify. Upon **Rimage**'s request, **Supplier** shall also furnish **Rimage** with insurance certificates which (i) identify **Rimage**, its directors, officers, employees, agents, successors and assigns as additional insureds; (ii) indicate that the insurer has insured, under the contractual liability section of the liability insurance policies, the specific liabilities assumed by **Supplier** under the Order; (iii) includes the insurer's commitment to give **Rimage** not less than 30 days prior written notice in the event of an adverse change in **Supplier**'s coverage; (iv) indicate **Supplier**'s insurance is primary without right of contribution from any insurance carried by **Rimage**; (v) are on occurrence form; and (vi) include a waiver of subrogation against **Rimage** or its insurer(s). If **Supplier** provides Services to **Rimage**, **Supplier** must provide a copy of its insurance certificate prior to beginning performance of the Service.

15. Hazard Communication. **Supplier** shall appropriately label all Products that contain hazardous chemicals or materials in accordance with all applicable international, federal, state or local standards or regulations that may apply. **Supplier** shall comply with systems that may be adopted by **Rimage** to ensure compliance with any such standards. **Supplier** shall as expeditiously as possible provide all information requested by **Rimage** regarding hazardous chemicals or materials contained in or used to manufacture Products for **Rimage**. **Supplier** acknowledges that **Rimage** relies on **Supplier** to verify the validity and fitness of any specifications provided to the **Supplier** for fabrication of the Product such as: blue prints, technical specifications, electronic media, reference materials, samples, hazardous chemicals and materials restrictions etc., whether provided to **Supplier** by **Rimage** or provided through an authorized third party.

16. Confidentiality. Except for information that becomes public without any wrongdoing of the receiving party or that is independently developed by the receiving party, neither party shall use for its own benefit or disclose to any third party the confidential or proprietary information of the other party without the other party's prior written consent. Any specifications, drawings, samples, or other data furnished by **Rimage** or created by **Supplier** for **Rimage** shall be treated by **Supplier** as the confidential information of **Rimage**, shall remain **Rimage**'s property and shall be returned to **Rimage** upon request. If **Supplier** and **Rimage** have signed a non-disclosure agreement, such agreement is incorporated by reference as if fully set forth herein.

17. Pricing. The prices shown on the Order for the Products or Services are complete and no additional charges may be added without **Rimage**'s express written consent, including but not limited to, transportation to the F.O.B. point, packaging, customs, duties, taxes, storage, insurance, boxing, crating and carriage expenses. **Supplier** represents and warrants that the price charged herein is not more than the ceiling price, if any, established by any proper government agency. **Supplier** represents and warrants that the prices for the Products and Services are at least as favorable as the price, terms and conditions given to its other customers. If **Supplier** should offer a Product or Service to another customer at a more favorable price, term or condition, then **Supplier** shall refund or credit to **Rimage** any difference between the price offered to such third party and the price paid by **Rimage**, or this Order shall be amended to include the more favorable term or condition as of the date such offer was made by **Supplier**. **Rimage** has the right to inspect **Supplier**'s books and records to verify compliance with these Terms and Conditions.

18. Ownership. **Supplier** acknowledges that **Rimage** shall own all right, title and interest, including all intellectual property rights, in and to all unique changes or alterations made to a Product to comply with **Rimage**'s unique requirements or specifications or any materials developed by **Supplier** as part of any Services. **Supplier** agrees that all such materials, changes or alterations are "works made for hire" under applicable law and **Supplier** hereby assigns to **Rimage** any and all intellectual property rights in such materials, alterations and changes.

19. Termination. Either party may terminate the Order if the other party fails to comply with its obligations under the Order and does not cure such breach within 30 days of receipt of notice regarding such breach. Without limiting its rights, **Rimage** may also notify **Supplier** of its intention to terminate the Order upon any of the following events: (a) at any time prior to the date of delivery specified in the Order; or (b) for convenience upon 30 days written notice to **Supplier**.

20. Limitation of Liability. REGARDLESS OF WHETHER A CLAIM IS IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, AND EXCEPT FOR LIABILITY ARISING UNDER SECTION 13 OR FOR A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BREACH OF ITS CONFIDENTIALITY OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY (A) INDIRECT, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES HEREUNDER, EVEN IF SUCH PARTY IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) LIABILITY IN EXCESS OF THE TOTAL AMOUNTS PAYABLE BY **RIMAGE** FOR THE PRODUCTS OR SERVICES SPECIFIED IN THE ORDER.

21. Governing Law. The Order and these Terms and Conditions shall be governed by and construed in accordance with the law of the state of Minnesota, without reference to conflicts of law principles. Venue for any proceeding arising from or related to the transactions contemplated in the Order shall be in the federal or state courts located in the state of Minnesota and the parties hereby consent to the exclusive personal jurisdiction of such courts. The United Nations Convention for the International Sale of Goods shall not apply to the transactions contemplated in the Order.

22. Assignment/Subcontracting. No part of the Order may be assigned or subcontracted, directly or indirectly, without **Rimage**'s prior written approval. **Rimage** shall have the right, exercisable in **Rimage**'s sole discretion, to immediately terminate the Order upon **Supplier**'s merger with another company, acquisition of **Supplier** by another company, or a sale of substantially all of **Supplier**'s assets to another company. **Rimage** reserves the right to assign all or any part of the Order to its parent, subsidiaries, affiliates or any successor in interest to all or any part of **Rimage**'s operations. Any attempt by **Supplier** to assign any rights, duties or obligations hereunder without **Rimage**'s prior written consent will be void.

23. Severability; Remedies Cumulative. If a court of competent jurisdiction finds any of the provisions contained herein to be invalid, illegal or unenforceable in any respect, such provision shall be construed as closely as possible to the original intent of such provision, and the validity, legality or enforceability of the remaining provisions contained herein shall not in any way be affected or impaired. All rights and remedies available under the Order or applicable law will be cumulative and may be exercised singularly or concurrently. No waiver of any rights of the Order or these Terms and Conditions shall be construed as a waiver of any other rights.

24. Independent Contractor. In all matters relating to the Order, each party is an independent contractor and the parties shall not have the authority to bind, represent or commit the other. Nothing in these Terms and Conditions shall be deemed or construed to create a joint venture, partnership or agency relationship between the parties for any purpose. In addition, neither party shall be deemed a joint employer of the other's employees. Neither party's employees shall be deemed "leased" employees of the other. Each party shall be solely responsible for the supervision of its employees and for the fulfillment of all obligations incumbent upon an employer with regard to its employees, including the withholding and payment of income taxes, statutory benefits, and social security taxes, and the provision of health, disability and other benefits or workers' compensation insurance.

25. Setoff. Rimage may set off any amount due from **Supplier**, whether or not under any Order, against any amount **Rimage** owes **Supplier**. **Rimage** may withhold from payment to **Supplier** an amount sufficient to reimburse **Rimage** for any loss, damage, expense, cost or liability from **Supplier's** failure to comply with any Order.

26. Survival. All Terms and Conditions that, by their nature would survive the expiration or termination of the Order shall so survive.

27. Affirmative Action. This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals on the basis of protected veteran status or disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.