

**RIMAGE CORPORATION**  
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**R I M A G E <sup>TM</sup>**

***Maintenance Agreement***  
***North American***  
***Terms and Conditions***  
***Effective September 27, 2010***

*These Terms and Conditions are incorporated into **Rimage** Corporation's ("**Rimage**") invoice (the "Invoice") to the end user of the equipment ("**Customer**") for maintenance for the equipment described on the attached Contract Confirmation (the "Covered Equipment"). **Rimage's** obligations to provide maintenance services for the Covered Equipment is limited to the terms contained herein. **Customer** agrees to be bound by and accept these Terms and Conditions unless **Customer** and **Rimage** have signed a separate agreement, in which case the separate agreement will govern any inconsistent provisions. Absent such separate agreement, no different, inconsistent, conflicting or additional terms or conditions **Customer** may provide in the course of the sale of **Rimage** maintenance services to **Customer** or attempting to vary the pre-printed 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. The Invoice and these Terms and Conditions, including all Exhibits attached, are referred to herein as the "Agreement" or the "Maintenance Agreement." The Exhibits to these Terms and Conditions are incorporated herein by reference.*

**SECTION 1. Maintenance Period.** The term of the Agreement shall be stated on the attached Contract Confirmation, unless terminated as hereinafter provided. It is the **Customer's** responsibility to renew this Agreement for additional terms of one year or such other term agreed to by **Rimage**. Any **Rimage** equipment added at the **Customer's** facility must be incorporated in this Agreement on a prorated basis.

**SECTION 2. Description of Service.** During the Maintenance Period, **Rimage** shall provide maintenance for the Covered Equipment, on a best effort basis so as to assure that the Covered Equipment will perform in accordance with the applicable documentation. Such maintenance shall include or exclude the following:

(a) Maintenance service to correct reported malfunctions of the Covered Equipment is included except as limited by Section 13 of this Agreement. **Rimage** will promptly respond to all requests for such service (repairing or replacing parts or complete components as deemed necessary by **Rimage**) to maintain the Covered Equipment in good working condition. Maintenance shall commence as soon as commercially reasonable on a best effort basis.

(b) **Rimage** includes storage of spare parts or exchange units (Parts) in such a state of readiness that they can be promptly substituted for common malfunctioning parts to the extent determined by **Rimage**. Parts will be furnished on an exchange basis when installed. At the time replacement Parts are installed into the Covered Equipment all replaced Parts shall become the property of **Rimage** and all replacement Parts shall become the property of the **Customer**, subject to the terms and conditions of this Agreement. All Parts will be new or equivalent to new in performance.

(c) Coverage excludes the exchange of the external PC control center. External PC control centers are serviced under a return to depot repair program.

(d) Coverage excludes exchange of CSS drive(s). Customer will be billed for replacement drive(s) at the then current **Rimage** list price. **Rimage** will ship replacement drives when a PO or acceptable payment for the replacement CSS drive(s) is received and accepted by **Rimage**.

**Rimage** requires equipment eligible to be Covered Equipment to be operational and in good working order prior to issuing a Maintenance Agreement. This Maintenance Agreement is non-transferable unless approved and processed by an authorized **Rimage** representative. See Section 10.

**SECTION 3. Grant of License.** This **Rimage** Agreement permits the **Customer** to use one copy of the specified version of **Rimage** supplied software or firmware on the Covered Equipment. The software or firmware are "in use" when loaded into temporary memory, installed into the permanent memory, or installed into the internal components of that Covered Equipment. Copying software or use of the **Rimage** software or firmware in any Covered Equipment other than that named on this Agreement, or failure to comply with the **Rimage** Software EULA, which may be found at <http://www.rimage.com/licenses.html>, shall void this Agreement.

**SECTION 4. Charges and Payments.** (a) For each of the above services the **Customer** shall pay **Rimage** the amount set forth in the **Rimage** pricelist then in effect or such amount agreed to by the parties. For services outside of the above, the **Customer** agrees to pay **Rimage** for services in the amounts agreed to within a specific service and support quotation or as set forth in Exhibit A. The **Customer** understands and agrees that the amounts set forth in Exhibit A may change from time to time, and agrees to pay the amounts stated on the then current **Rimage** Time and Material Rates for services provided after the first anniversary of the effective date of this Agreement. Payments not received per the terms of the **Rimage** invoice may result in cancellation of the Maintenance Agreement or non-support until payment is made current. The charges for this Maintenance Agreement will be calculated on an annual basis and shall not include any sales, use, duty or similar taxes, which shall be billed as a separate line item on **Rimage's** invoice if applicable. Charges for service rendered for less than any full calendar month shall be computed at **Rimage's** hourly rates then in effect for maintenance requested by the **Customer** and shall be billed as a separate line item on **Rimage's** invoice if applicable. At the expiration of each contract period, **Rimage** shall advise the **Customer** of the Maintenance Agreement hourly support rates which shall apply to the next year of such maintenance service.

(b) Full payment is due for the amount set forth on **Rimage's** invoice at the time this Agreement is put in effect. Prorated Agreements, or requests for payment plans of less than the full annual amount shall be assessed an additional ten (10)

percent of the annual maintenance amount. If a Maintenance Agreement is not renewed by the **Customer** at the time of expiration, the equipment eligible to be Covered Equipment may require to be re-certified at the **Customer's** expense. See Section 12.

(c) **Rimage** shall be entitled to recover additional charges for the following services, which are not included in the Maintenance Agreement and for which **Rimage** will invoice **Customer** at the hourly rates or part(s) list price then in effect:

- (i) repair service on Covered Equipment that has been damaged due to improper use, management, or supervision of the Covered Equipment, failure to provide a suitable installation environment including, but not limited to, failure to provide adequate electrical power, air conditioning, or humidity control; causes external to the Covered Equipment, which shall include, but not be limited to, fire, flood, water, wind, lightning, electrical malfunctions, and transportation;
- (ii) modifications, alteration, or changes made by the **Customer** or by parties other than **Rimage**;
- (iii) replacement of print head assemblies due to use of **non-Rimage** media or ribbons, replacement of print head by any party other than **Rimage**, replacement of print heads due to high use, or unless covered as part of a **Rimage** maintenance agreement promotion, are covered on a "per occurrence" exchange basis;
- (iv) malfunctioning parts retained by the customer, due to HIPPA, security (see Exhibit C), confidentiality or other reasons, and where **Rimage** has requested said parts be returned for any reason;
- (v) CSS Drives (see Section 2.(d) for details);
- (vi) repairs or conditions caused by the **Customer's** use of parts or consumables not certified by **Rimage** or services performed by persons not authorized by **Rimage**;
- (vii) equipment relocation services, including travel, labor, materials and shipping charges; or
- (viii) first service call after Covered Equipment has been moved to a different location (including a move between rooms) if **Rimage's** approval was not obtained prior to the actual move. All travel, labor, materials, and shipping charges for such services or for services otherwise excluded under this Agreement and not listed in this Section 4 shall be paid for by the **Customer** at **Rimage's** retail prices and hourly rates then in effect.

**Rimage** shall have no obligation to perform service on the Equipment of a **Customer** that is not current in its payment obligation(s) to **Rimage** for charges under this Agreement or otherwise.

**SECTION 5. Software Subscription and Support (SSaS) Releases.** **Rimage** provides software updates under a Software Subscription and Support Agreement (which is this Agreement but covers only software) or as part of a Hardware Maintenance Agreement.

Software updates will be included in these agreements, excluding updates for End of Service equipment or software, End of Production equipment, or **Rimage** Exchange agreements. These software updates may be available for purchase at **Rimage's** retail prices then in effect or may be limited to new product sales.

(a) Requirements: All components of a **Rimage** system (i.e. PC controller, autoloader, printer, etc.) must be within the eligible **Rimage** service period and at the same compatibility level and must be included under this Agreement. **Rimage** software is a copyrighted work. Failure to comply with the **Rimage** Software EULA, which may be found at <http://www.rimage.com/licenses.html>, will void the right to use the **Rimage** software.

(b) Limitations: Microsoft Operating System; **Rimage** will follow the support policies of Microsoft. **Customers** are expected to update to the latest Microsoft Service Packs and Critical Updates installed within 180 days of general release. **Rimage** will not support systems running service packs more than two versions back or provide support of **Rimage** systems running service packs that are no longer supported by Microsoft. Apple Macintosh Operating System support will be limited to the Apple Operating System specified in the **Rimage** application.

(c) Items Included: This Agreement includes: documentation updates, software updates, service packs, firmware and installation instructions.

(d) Items Not Included: This Agreement does not include Operating System updates; new version releases or upgrades **Rimage** determines are "major"; software releases containing a chargeable new feature; re-mastering of images or label files; installation; separately licensed features not included in original software; or hardware or third party software application costs required to upgrade systems to allow the use of the latest **Rimage** software.

**SECTION 6. Periods of Maintenance Service.** Unless an upgraded contract described in Section 10 is purchased by the **Customer**, the maintenance services and related telephone triage support set forth in the Agreement entitles the **Customer** to weekday maintenance service between the hours of 7:30 a.m. and 5:30 p.m. local time, Monday through Friday, excluding **Rimage** recognized holidays listed on Exhibit B. If maintenance service is requested by the **Customer**

to be performed outside the above hours, such service will be provided at **Rimage's** retail hourly rate then in effect.

**SECTION 7. Customer Representative.** At all times during the term of this Agreement, a minimum of one employee of the **Customer** shall be designated to act as **Customer** Representative. The **Customer** Representative is responsible to open a trouble ticket with **Rimage** and provide the system serial number and other necessary system and trouble information which may include sending **Rimage** system log files for analysis. The trouble ticket should be retained and used for future reference of the same incident. The **Customer** Representative shall be responsible to react to all Covered Equipment problems, attempt troubleshooting to isolate the malfunctioning area, cooperate with **Rimage** to diagnose the problem over the telephone, reload the **Rimage** system operating system or **Rimage** software, replace front swappable recorders or perform other **Rimage** designated Operator level troubleshooting or repairs.

**SECTION 8. System Location.** The Covered Equipment will be kept only at the contracted site. **Rimage** has the right to void this Maintenance Agreement with respect to any Covered Equipment or part thereof removed to a location deemed by **Rimage** to be outside of the area of serviceability. If **Rimage** determines that service at a new location causes **Rimage** increased travel time or cost, the **Customer** agrees to pay reasonable increased charges. Any Covered Equipment moved to a different location without the pre-approval by an authorized **Rimage** representative may require the equipment to be re-certified as outlined in section 12.

**SECTION 9. System Add-Ons.** In the event the **Customer** purchases additional Covered Equipment from **Rimage**, **Rimage** agrees to furnish maintenance service for such additional Covered Equipment pursuant to the terms of this Agreement. The additional charge to the **Customer** for these services shall be at **Rimage's** retail hourly rate then in effect.

**SECTION 10. CD/DVD/BD/CSS System Service Programs. GENERAL TERMS:** **Rimage** will provide support of all systems under a currently active Maintenance Agreement and where all software is genuine. The **Customer** contacts and works with **Rimage** as required in Section 7. All response time goals set forth in this Section are based on business days (excluding weekends and holidays on Exhibit B) unless otherwise specified. The print head is a wear item and excluded from all maintenance services coverage, except as described below, and will be billed at the current **Rimage** list price. CSS drive(s) are excluded from coverage and the customer will be billed for the replacement drive(s) at the current **Rimage** list price. The **Customer** keeps the Field Replacement Unit ("FRU"), autoloader, printer or recorder, **Rimage** keeps the returned FRU. The **Customer** is responsible for return shipping charges to **Rimage** and **Rimage** is responsible for ground shipping charges back to the **Customer** unless otherwise specified or agreed to by **Rimage**. Rapid Exchange provides a standard configuration in stock item to be delivered by next business day freight (where available) when such a request is in house at **Rimage** by 3:00 pm central time. Non-standard units not stocked will be shipped on a best effort basis, typically within 16 business hours of order request. **Failure to return replaced items within five (5) business days from the Rimage date of service completion will result in the Customer being invoiced for the full list price of non-returned parts/equipment. Failure to package the Covered Equipment properly in Rimage approved packaging could result in damage during shipping that render the Covered Equipment non-repairable. If the Equipment is damaged due to improper packaging or a palletized unit is returned in non-palletized packaging, the Customer will be charged for the cost of repair or replacement of the Covered Equipment.** If **Customer** requests onsite service and no problem with the **Rimage** systems is found, the **Customer** may be billed at the then current Time and Material rates as outlined in Exhibit A.

**Next Business Day On-site:** Technician arrives the next business day: Includes **Rimage** shipping a replacement refurbished autoloader, front replaceable recorder, or printer assembly delivered the next business day. A **Rimage** authorized technician will arrive within one business day to unpack, install, test and repackage the malfunctioning unit or parts. **Rimage** will provide a pre-paid return freight label. The **Customer** is responsible to follow the **Rimage** return material procedure and to contact and arrange for the **Rimage** authorized carrier to pick up the malfunctioning unit for return to **Rimage** within five (5) business days. Coverage is limited to a 100 mile radius of a **Rimage** specified city.

**Same Day On-Site: Technician arrives within four (4) hours, 24 Hours a day, seven (7) days a week:** Includes On-site Second Business Day provisions upgraded to 4 hour on-site response provided 24 hours a day x 7 days a week (excluding holidays on Exhibit B). 4 Hour response time Agreement eligibility is limited to a 100 mile radius of a **Rimage** specified city.

**Rapid Exchange:** Includes **Rimage** shipping a replacement refurbished autoloader, front replaceable recorder, printer assembly or embedded module delivered the next business day. The **Customer** is responsible to install and repackage the malfunctioning unit. The **Customer** is responsible to follow the **Rimage** return material procedure to contact and arrange for the **Rimage** authorized carrier to pick up the malfunctioning unit for return to **Rimage** within five (5) business days. The **Customer** is responsible for return shipping charges and to insure the product arrives at **Rimage** intact.

**Exchange:** Includes **Rimage** shipping a replacement refurbished autoloader, front replaceable recorder, printer assembly or embedded module delivered within four or five business days. The **Customer** is responsible to install

and repackage the malfunctioning unit. The **Customer** is responsible to follow the **Rimage** return material procedure to contact and arrange for the **Rimage** authorized carrier to pick up the malfunctioning unit for return to **Rimage** within five (5) business days. The **Customer** is responsible for return shipping charges and to insure the product arrives at **Rimage** intact.

**Print heads:** **Rimage** began a promotion as of April 1, 2010 to cover the replacement of one (1) print head per year per system for new and renewal maintenance agreement **Customers**. This promotion may end at any time and is valid for the period of the original agreement that included this promotional coverage. This promotion excludes accounts where **Rimage** and the **Customer** have negotiated a different agreement. **Rimage** reserves the right to end this promotion at any time for new or renewal agreements. All print head replacements beyond the one (1) promotional covered print head will be billed at 50% of the then current **Rimage** print head replacement price (which includes materials and labor). This coverage is non-transferrable.

**Contract Inclusions:** For each **Rimage** Producer III, or Professional Series unit covered under an active **Rimage** Maintenance Agreement, **Rimage** shall include telephone triage support and software updates, as outlined in the SSaS section above. **Rimage** shall also provide business hour telephone triage support and software updates for current model Desktop systems under a Rapid Exchange Contract.

**Contract Exclusions:** The following items and services are specifically excluded from coverage under this Agreement:

- (a) Telephone or maintenance support of systems utilizing non-certified **Rimage** parts, non-certified **Rimage** consumables, modifications or services performed by persons not authorized by **Rimage** or violations of any of the software licensing and software use terms as specified in section 5;
- (b) Covered Equipment that has malfunctioned as a result of improper installation;
- (c) Routine maintenance, including but not limited to: changing of ribbons, clearing of jams, cleaning print head, printer alignments; routine adjustments/alignments; packing or unpacking (except for on-site contracts);
- (d) System relocations or malfunctions due to **Customer** relocations; exchanges for preventative maintenance; and/or On-site repairs or exchanges for autoloaders with front replaceable recorders.
- (e) Training services of any kind.
- (f) The exchange of the external PC control center. External PC control centers are serviced by returning the unit to the **Rimage** depot for repair and return.
- (g) CSS drive(s)

**Rimage** reserves the right to deny coverage under this Agreement for other items and services outside of the Description of Service in Section 2. Charges for items or services not covered by this Agreement are set forth in Section 4, or will be quoted at the time it is determined by **Rimage** that the item or service is not covered by this Agreement.

**SECTION 11. Parts Exchange and Return.** When any autoloader, printer, recorder or Part is sent to the **Customer**, the **Customer** is responsible to follow the **Rimage** provided return material procedure to repackage the malfunctioning item using packing materials received with the replacement part and to contact and arrange for a carrier to pick up the malfunctioning item for return to the **Rimage** US or Canadian depot within five (5) business days. The **Customer** is responsible for shipping charges and to insure the product arrives at **Rimage** intact unless otherwise specified. Failure to return the malfunctioning part within five (5) business days from the **Rimage** date of shipment of the replacement part will result in the **Customer** being invoiced for the full list price of the part. In addition, **Rimage** will suspend the delivery of maintenance services under this Agreement until the part is returned or **Rimage** is paid in full.

**SECTION 12. Re-certification.** Equipment that is beyond the original **Rimage** Warranty or **Rimage** Maintenance Agreement period and/or are not covered under an active **Rimage** Maintenance Agreement by more than 60 days is subject to Recertification when purchasing a new **Rimage** Maintenance Agreement. Recertification requests must be included with an order for a Post Warranty **Rimage** Maintenance Agreement. Equipment that is beyond the original **Rimage** Warranty, **Rimage** Warranty Upgrade, or **Rimage** Post Warranty Maintenance Agreement period by more than 1 year requires factory recertification, which may include billable labor and parts. Once the equipment is examined and approved, a **Rimage** Maintenance Agreement may be sold and applied to the equipment.

**SECTION 13. Incidental or Consequential Damages.** **Rimage** and the **Customer** agree to hold the other harmless for any claims, damages, liabilities, actions, or losses for any personal injury, death, or loss or other damage to property arising out of or in any way connected with maintenance service for the Covered Equipment as defined in this Agreement. **Rimage** shall not be liable for any direct or indirect costs, special, incidental or consequential damages, or loss of actual or anticipated profits resulting from Covered Equipment failures at the **Customer's** site. In no case shall **Rimage** be responsible for damages in excess of the amount the **Customer** pays for this Maintenance Agreement.

**SECTION 14. Assignment.** **Rimage** may assign its rights and obligations under this Agreement without the written consent of the **Customer**. The **Customer** recognizes the right of **Rimage** to designate competent agents to act on its behalf to perform maintenance services.

**SECTION 15. Termination.** The **Customer** may terminate maintenance services under this Agreement prior to the Agreement scheduled end date by giving thirty (30) days written notice to **Rimage**. The minimum cancellation charge will be four (4) months of the Maintenance Agreement charges. **Rimage** shall, at its sole discretion, have the right to terminate this Agreement without penalty upon thirty (30) days written notice to the **Customer** following (i) any alleged breach or default by the **Customer** of any agreement with **Rimage**, (ii) any failure by the **Customer** to promptly make payments due and payable hereunder, (iii) any act of bankruptcy or insolvency by the **Customer**, (iv) any equipment or parts added to the Covered Equipment purchased by the **Customer** from a source other than **Rimage** without **Rimage's** prior written consent, (v) misrepresentation of the unit and serial number(s) covered under this Agreement or (vi) the use of non-**Rimage** certified consumables with the system. If **Rimage** voids this Agreement pursuant to Section 3 or Section 8, the minimum cancellation charge shall be paid by the **Customer** to **Rimage**.

**SECTION 16. Notices.** Except for service requests, which may be by telephone or email, notices, requests, and other communications hereunder shall be in writing and delivered personally or sent by first-class mail to **Rimage** and the **Customer** at the addresses on the invoice for the charges associated with this Agreement. Any notice, requests, and other communication shall be effective when received by the addressee thereof, regardless of any other date that may appear thereon. Either party hereto may change its address by giving notice thereof to the other party in conformity with this Section 19.

**SECTION 17. Paragraph Headings.** The paragraph headings used in this Agreement are merely descriptive and form no part of the Agreement between the parties and are in no way intended to alter the Agreement contained herein.

**SECTION 18. Laws Governing.** Unless an express definition herein or the context hereof otherwise requires, all terms used in this Agreement which are defined in the Uniform Commercial Code, as adopted in the State of Minnesota, shall have the same definition and meaning for purposes of this Agreement and all related transactions and documents. This Agreement and all related transactions 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 this Agreement or the transactions contemplated 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 **Customer** irrevocably waives any objection to the jurisdiction of, or venue in, either of these courts and agrees that the acceptance of **Rimage's** service under this Agreement constitutes doing business in the State of Minnesota. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement, its execution, delivery or performance.

**SECTION 19. Severability.** If any provision of this Agreement shall be invalid or unenforceable, the remainder of this Agreement shall remain valid exclusive of such invalid or unenforceable provision.

**SECTION 20. Force Majeure.** Except with respect to the obligation to pay money, neither party will be responsible for delays or failures in performance resulting from acts beyond the control of each party. Such acts shall include, but not be limited to: acts of God, strikes, supplier delay, lockouts, riots, acts of war, epidemics, government regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes or other disasters. In addition to such acts of force majeure, **Rimage** shall not be liable in any way for the delay, failure in performance, loss or damage due to non-compliance of any component of the Covered Equipment. The **Customer** and **Rimage** agree that this allocation of risk is fair, reasonable, and not unconscionable.

**SECTION 21. Entire Agreement.** This Agreement constitutes the entire agreement between **Rimage** and the **Customer** with regard to the subject matter hereof, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

## Exhibit A

### Rimage Time and Materials Rates

(Effective March 1, 2010)

	<b>Standard</b> Monday – Friday 7:30 AM - 5:30 PM *	<b>Overtime</b> Monday – Friday 5:30 PM - 7:30 AM and Saturday/Sunday
<b>Labor Charges – All rates per hour</b>		
CD/DVD/BD/CSS System Labor (Minimum 2 hours)	\$215.00	\$322.00
<b>Travel Charges – All rates per hour</b>		
Travel Time Portal to Portal	\$215.00	\$322.00
<b>Airfare Charges – actual costs</b>		
<b>Rental Car - actual costs</b>		
<b>Hotel Charges - actual costs</b>		
<b>Personal Vehicle - \$0.50 per mile</b>		
<i>Meal Charges are included in the hourly rate</i>		
<b>Parts Costs are List Price plus Shipping &amp; Handling costs</b>		

\*Time indicated is for the time zone of the Customer.

Please contact Rimage at 952-946-0004 or 800-553-8312 for further information.

## **Exhibit B**

### **Rimage Recognized North American Holidays**

***New Years Day***

***Memorial Day***

***Fourth of July***

***Labor Day***

***Thanksgiving***

***Day after Thanksgiving***

***Christmas Eve Day***

***Christmas Day***

***New Years Eve Day***

***Easter Day***



## Exhibit C

### **Rimage Requirements for Equipment Subject to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)**

**Customer** represents that **Customer** will arrange for the deletion of all PHI from the memory (hard drive or otherwise) of any equipment that will be covered under the Maintenance Agreement to which this Exhibit C is attached. **Customer** will not allow **Rimage** to view or receive any disk or other media that contains PHI. If it is necessary for **Rimage** to view or receive any data on any media or otherwise in order to provide maintenance services, **Customer** will provide “dummy” data that is not the PHI of any person. **Customer** will ensure that its personnel secure and safeguard PHI so that no PHI or other sensitive beneficiary information is received by any of **Rimage’s** or any **Rimage** subcontractor’s personnel who perform Services under the Maintenance Agreement. Where **Customer** determines that a component that would normally be exchanged under the Maintenance Agreement must be destroyed to safeguard PHI, **Customer** will pay **Rimage** for the component pursuant to **Rimage’s** then current retail price list.