**Rimage Software License Agreement**

Last Updated: December 14, 2023

This Software License Agreement (this “**Agreement**”) is a binding contract between you, the legal entity identified on the applicable Order Form (“**Licensee**,” “**you**,” or “**your**”) and Rimage Corporation (“**Rimage**,” “**we**,” “**our**” or “**us**”) and is effective as of your signing of the applicable Order Form (the “**Effective Date**”).

You are accepting the terms and conditions of this Agreement by: (a) clicking a box indicating acceptance, (b) signing or otherwise agreeing to an Order Form that references this Agreement, (c) installing or using the Software, or (d) any other method of indicating your acceptance of this Agreement. If you are accepting this Agreement on behalf of a company or other legal entity, you represent that you have authority to bind such entity to this Agreement. If you do not have such authority or do not agree with the terms and conditions of this Agreement, you may not use install or use the Software.

1. Definitions.

“**Documentation**” means user manuals, handbooks, and installation guides relating to the Software provided by Rimage to Licensee either electronically or in hard copy form.

“**Fees**” means the fees paid or required to be paid by Licensee for the license granted under this Agreement as well as for any Professional Services provided by Rimage to Licensee. This may also include any ancillary fees associated with the implementation of the Software.

“**Intellectual Property Rights**” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“**Order Form**” means an ordering document executed by you and us that is governed by this Agreement which specifies the Software to be provided by us and licensed to you hereunder, the subscription Fees associated therewith, the subscription term, and any other transaction-specific details.

“**Professional Services**” means any consulting, implementation, configuration or other services provided by us to you pursuant to a Statement of Work or an Order Form.

“**Software**” means the software specified in the Order Form in object code format, including any Updates provided to Licensee pursuant to this Agreement.

“**Statement of Work**” means a document signed by Licensee and Rimage that references this Agreement and describes certain Professional Services (if any) purchased by Licensee under this Agreement and/or pursuant to an Order Form.

“**Updates**” means any updates, bug fixes, patches, or other error corrections to the Software that Licensor generally makes available free of charge to all licensees of the Software.

2. License Grant and Reservation of Rights.

2.1 License Grant. Subject to and conditioned upon your payment of Fees and your compliance with all terms and conditions set forth in this Agreement, we hereby grant you a non-exclusive, non-sublicensable, non-transferable, license, during the Term, to:

(a) Install in accordance with the Documentation one (1) copy of the Software on one (1) hardware device up to the number of hardware devices set forth on the Order Form which are owned or leased, and/or controlled by, Licensee. Each hardware device which the Software is installed upon must have a license. In addition to the foregoing, Licensee has the right to make one copy of the Software solely for archival purposes and one copy of the Software solely for backup purposes, provided that Licensee shall not, and shall not allow any person to, install or use such copy other than if and for so long as the copy installed in accordance with the preceding sentence is inoperable and, provided, further, that Licensee uninstalls and otherwise deletes such inoperable copy. All copies of the Software made by the Licensee: (i) will be the exclusive property of the Licensor; (ii) will be subject to the terms and conditions of this Agreement; and (iii) must include all trademark, copyright, patent, and other Intellectual Property Rights notices contained in the original.

(b) Use and run the Software as properly installed in accordance with this Agreement and the Documentation, solely as set forth in the Documentation and solely for your internal business purposes. Such use is permitted only on the hardware device on which the Software is installed, at the physical location thereof and not via any remote access or other network.

(c) Download or otherwise make one (1) copy of the Documentation per copy of the Software permitted to be installed in accordance with this Agreement and use such Documentation, solely in support of its licensed use of the Software in accordance herewith. All copies of the Documentation made: (i) will be our exclusive property; (ii) will be subject to the terms and conditions of this Agreement; and (iii) must include all Intellectual Property Rights notices contained in the original.

(d) Transfer any copy of the Software from one hardware device to another, provided that: (i) the number of hardware devices on which the Software is installed at any one time does not exceed the number permitted under Section 2.1(a); and (ii) you notify us in writing of each such transfer, including in such notice the information required under this Agreement for each hardware device on which the Software is installed.

2.2 Reservation of Rights. Rimage reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party, any Intellectual Property Rights or other right, title, or interest in or to the Software.

3. Use Restrictions. You shall not directly or indirectly: (a) use (including make any copies of) the Software or Documentation beyond the scope of the license granted under Section 2.1; (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof; (c) combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs; (d) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Software or any part thereof; (e) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices provided on or with the Software or Documentation, including any copy thereof; (f) except as expressly set forth in Section 2.1(a) and Section 2.1(c), copy the Software or Documentation, in whole or in part; (g) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software, or any features or functionality of the Software, to any third party for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, time-sharing, service bureau, software as a service, cloud, or other technology or service; (h) use the Software or Documentation in violation of any law, regulation, or rule; or (i) use the Software or Documentation for purposes of competitive analysis of the Software, the development of a competing software product or service, or any other purpose that is to Rimage’s commercial disadvantage.

4. Responsibility for Use of Software. You are responsible and liable for all uses of the Software and Documentation through access thereto provided by you, directly or indirectly. Specifically, and without limiting the generality of the foregoing, you are responsible and liable for all actions and failures to take required actions with respect to the Software and Documentation by any party to whom you may provide access to or use of the Software and/or Documentation, whether such access or use is permitted by or in violation of this Agreement.

5. Intellectual Property Rights; Feedback. You acknowledge and agree that the Software and Documentation are provided under license, and not sold, to you. You do not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto, other than to use the same in accordance with the license granted and subject to all terms, conditions, and restrictions under this Agreement. We and our licensors and reserve and shall retain their entire right, title, and interest in and to the Software and all Intellectual Property Rights arising out of or relating to the Software, except as expressly granted to you in this Agreement. You agree to use commercially reasonable efforts to safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access. You agree to promptly notify us if you become aware of any infringement of our Intellectual Property Rights in the Software and fully cooperate with us in any legal action taken by us to enforce our Intellectual Property Rights. If you or any of your employees, contractors, or agents sends or transmits any communications or materials to us by mail, email, telephone, or otherwise, suggesting or recommending changes to the Software, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), we are free to use such Feedback irrespective of any other obligation or limitation between you and us governing such Feedback. All Feedback is and will be treated as non-confidential. You hereby assign to us on your behalf, and shall cause your employees, contractors, and agents to assign, all right, title, and interest in, and we are free to use, without any attribution or compensation to you or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although we are not required to use any Feedback.

6. Confidential Information. From time to time during the Term, Rimage and Licensee may disclose or make available to the other party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, whether or not marked, designated, or otherwise identified as “confidential” at the time of disclosure (collectively, “**Confidential Information**”). Confidential Information does not include information that, at the time of disclosure is: (a) is already in or later comes into the public domain through no fault of the recipient; (b) known to the receiving party; (c) rightfully obtained by the receiving party on a non-confidential basis from a third party; or (d) independently developed by the receiving party. The receiving party shall not disclose the disclosing party’s Confidential Information to any person or entity, except to the receiving party’s employees, agents, or subcontractors who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder and who are required to protect the Confidential Information in a manner no less stringent than required under this Agreement. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (a) to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (b) to establish a party’s rights under this Agreement, including to make required court filings.

7. Professional Services. We will perform Professional Services as set forth in each applicable Statement of Work or Order Form, subject to the terms of this Agreement.

8. Support. The Software includes any Updates to the Software that we make generally available to all licensees of the Software. Updates do not include any new version or new release of the Software that we may issue as a separate or new product, and we may determine whether any issuance qualifies as a new version, new release, or Update in our sole discretion. We have no obligation to provide Updates: (a) for any but the most current or immediately preceding version or release of the Software; (b) for any copy of Software for which all previously issued Updates have not been installed; (c) if you are in breach under this Agreement; or (d) for any Software that has been modified other than by us or with our authorization, or that is being used with any hardware, software, configuration, or operating system not specified in the Documentation or expressly authorized by us in writing.

9. Collection and Use of Information. You acknowledge that we may, directly or indirectly through the services of third parties, collect and store information regarding use of the Software and about the hardware devices on which the Software is installed or through which it otherwise is accessed and used, through: (a) the provision of maintenance and support services; and (b) security measures included in the Software. You agree that we may use such information for any purpose related to any use of the Software by you or on your hardware devices, including but not limited to: (a) improving the performance of the Software or developing Updates; and (b) verifying your compliance with the terms of this Agreement and enforcing our rights, including all Intellectual Property Rights in and to the Software.

10. Third-Party Materials. The Software may include software, content, data, or other materials, including related documentation, that are owned by parties other than Rimage and that are provided to you on terms that are in addition to and/or different from those contained in this Agreement (“**Third-Party Licenses**”). You are bound by and shall comply with all Third-Party Licenses. Any breach of any Third-Party License is also a breach of this Agreement.

11. Fees and Payment; Audit Rights.

11.1 You agree to pay us the Fees as described in the Order Form without offset or deduction. You agree to make all payments hereunder on or before the due date. If you fail to make any payment when due, without limiting our other rights and remedies: (a) we may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (b) you shall reimburse Rimage for all reasonable costs incurred by us in collecting any late payments or interest, including attorneys’ fees, court costs, and collection agency fees; and (c) if such failure continues for 10 days or more, we may immediately terminate this Agreement. All Fees and other amounts payable by you under this Agreement are exclusive of taxes and similar assessments. You are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by you hereunder, other than any taxes imposed on our income.

11.2 You agree to maintain complete and accurate records in accordance with generally accepted accounting principles during the Term and for a period of two (2) years after the termination or expiration of this Agreement with respect to matters necessary for accurately determining amounts due hereunder. We may, at our expense, on reasonable prior notice, periodically inspect and audit your records with respect to matters covered by this Agreement, provided that if such inspection and audit reveals that you have underpaid us with respect to any amounts due and payable during the Term, you shall promptly pay the amounts necessary to rectify such underpayment, together with interest in accordance with Section 11.1(a). You shall pay for the costs of the audit if the audit determines that your underpayment equals or exceeds 5% for any quarter. Such inspection and auditing rights will extend throughout the Term of this Agreement and continue for a period of two (2) years after the termination or expiration of this Agreement.

12. Term and Termination.

12.1 Term. The term of this Agreement shall begin on the Effective Date and remain in effect for the term set forth in the Order Form, including any renewal terms, or until earlier terminated as set forth herein (collectively, the “**Term**”). At the end of the initial or any successive renewal term, unless otherwise set forth on the applicable Order Form, your Software license subscription will automatically renew for additional successive term as indicated in the Order Form at the Fees designated by us prior to such renewal date, unless either party provides the other party with written notice of non-renewal at least thirty (30) days prior to the end of the applicable Term. The term of each Statement of Work will be as set forth on the Statement of Work.

12.2 Termination. Either party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach: (a) is incapable of cure; or (b) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach.

12.3 Either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (b) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (c) makes or seeks to make a general assignment for the benefit of its creditors; or (d) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

12.4 Effect of Termination. Termination or expiration of an individual Order Form or Statement of Work will not be deemed a termination of this Agreement so long as other Order Forms or Statements of Work remain in effect. Termination of this Agreement will, however, terminate all outstanding Order Forms and Statements of Work. Upon termination of this Agreement, you shall immediately discontinue use of the Software and destroy all copies of the Software and Documentation. No expiration or termination of this Agreement will affect your obligation to pay all Fees that may have become due before such expiration or termination, or entitle you to any refund.

12.5 Survival. This Section 12.5, Sections 1, 2.2, 3, 4, 5, 6, 9, 10, 11, 13.2, 14, 15, 16, 19 and 20, and any right, obligation, or required performance of the parties in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

13. Limited Warranty and Warranty Disclaimer.

13.1 Rimage warrants that (a) the Software shall operate substantially in accordance with the Documentation when used in accordance with such Documentation; and (b) any Professional Services will be provided by Rimage in a professional and workmanlike manner and substantially in accordance with the specifications in the applicable Order Form or Statement of Work.

13.2 EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN [SECTION 13.1](#a578362), THE SOFTWARE IS PROVIDED “AS IS” AND RIMAGE SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. RIMAGE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. RIMAGE MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE OR RESULTS OF THE USE THEREOF, WILL MEET YOUR OR ANY OTHER PERSON’S OR ENTITY’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF YOUR OR ANY THIRD PARTY’S SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

14. Indemnification. Licensee shall indemnify, hold harmless, and, at Rimage’s option, defend Rimage and its officers, directors, employees, agents, affiliates, licensors, successors, and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees arising from or relating to any third-party claim, suit, action, or proceeding (“**Third-Party Claim**”) arising from Licensee’s use of the Software in a manner not authorized by this Agreement; provided that Licensee may not settle any Third-Party Claim against Rimage unless Rimage consents to such settlement, and further provided that Rimage 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.

15. Limitation of Liability. IN NO EVENT WILL RIMAGE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER RIMAGE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL RIMAGE’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE EXCEED THE TOTAL AMOUNTS ACTUALLY PAID TO RIMAGE UNDER THE ORDER FORM FOR THE SOFTWARE, OR STATEMENT OF WORK FOR THE PROFESSIONAL SERVICES, GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

16. Modifications. You acknowledge and agree that we have the right, in our sole discretion, to modify any part or all of this Agreement. If we modify this Agreement, the updated Agreement will be posted at <https://www.rimage.com>/SOPHIA-terms. The updated Agreement will become effective and binding on the next business day after it is posted. When we modify this Agreement, the “Last Updated” date above will be updated to reflect the date of the most recent version. We encourage you to review these Terms periodically. Your continued use of the Software after the effective date of the modifications will be deemed your acceptance of the modified Agreement.

17. Export Regulation. The Software may be subject to US export control laws, including the US Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, regulation, or rule. You shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the U.S.

18. U.S. Government Rights. Each of the software components that constitute the Software and the Documentation is a “commercial product” as that term is defined at 48 C.F.R. § 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. § 12.212. Accordingly, if you are an agency of the US Government or any contractor therefor, you receive only those rights with respect to the Software and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other U.S. Government customers and their contractors.

19. Governing Law and Jurisdiction. This agreement is governed by and construed in accordance with the internal laws of the State of Minnesota without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Minnesota. Any legal suit, action, or proceeding arising out of or related to this agreement or the rights granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Minnesota in each case located in Hennepin County, Minnesota, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

20. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. Any notices to us must be sent to our address at 201 General Mills Blvd, Golden Valley, MN 55426, and must be delivered either in person, by certified or registered mail, return receipt requested and postage prepaid, or by recognized overnight courier service, and are deemed given upon receipt by us. Notwithstanding the foregoing, you hereby consent to receiving electronic communications from us. These electronic communications may include notices about applicable fees and charges, transactional information, and other information concerning or related to the Software. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that such communications be in writing. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. Any failure to act by us with respect to a breach of this Agreement by you or others does not constitute a waiver and will not limit our rights with respect to such breach or any subsequent breaches. This Agreement may not be assigned or transferred for any reason whatsoever without our prior written consent and any action or conduct in violation of the foregoing will be void and without effect. We expressly reserve the right to assign this Agreement and to delegate any of our obligations hereunder. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.