

# Reseller Agreement for CareChatz

This Rimage Solutions Reseller Agreement (the "**Reseller Agreement**") is between the applicable reseller ("**you**" or "**Reseller**"), and Rimage Solutions for product "CareChatz". If you are agreeing to this Reseller Agreement not as an individual but on behalf of your company, then "Reseller" or "you" means your company, and you are binding your company to this Reseller Agreement.

This Reseller Agreement is a separate agreement from the agreement that Rimage Solutions has with its end users at <https://www.carechatz.com> (as may be modified by Rimage Solutions from time to time). For convenience and consistency, however, the definitions of certain terms related to our products and services (namely Software, Hosted Services, Products, and Authorized Users) will be the same as those in the Rimage Solutions Customer Agreement.

***This Reseller Agreement does not have to be signed in order to be binding. You indicate your assent to the terms by clicking on the "I agree" (or similar button) that is presented to you at the time of your reseller application.***

## 1. Application Requirements.

To the extent that we make Product available for resale, You (or the purchaser or end user) must provide all of the requested information including, without limitation, the identity of the end user, the end user's business and email addresses, and the specific details asked by the online forms at [www.carechatz.com](http://www.carechatz.com). All such information must be accurate and complete and must reflect bona fide details you have received from end users.

## 2. Limited Right to Resell.

Subject to this Reseller Agreement, we grant you a non-exclusive, non-transferable right to resell the Product specified to the end user specified in the Reseller Order, solely for use by such end user in accordance with the Rimage Solutions Customer Agreement. This right to resell does not apply to other Products developed by Rimage Solutions.

## 3. Enforcement of Rimage Solutions Customer Agreement.

**3.1. End User Terms.** All use of the Product by end users is subject to the Rimage Solutions Customer Agreement, and you may not purport to impose any other terms pertaining to their use of the Products. You are responsible for ensuring that each end user enters into the Rimage Solutions Customer Agreement in a manner that is legally binding upon the end user. This may require you to (a) notify each end user that Rimage Solutions products are subject to the Rimage Solutions Customer Agreement and that by placing an order with Reseller the end user agrees to the Rimage Solutions Customer Agreement, (b) include either a copy of or link to the

Rimage Solutions Customer Agreement in each quotation and order form you may issue to the end user, and (c) obtain from each end user written confirmation of acceptance of the Rimage Solutions Customer Agreement prior to the earlier to occur of acceptance of the order by Reseller or delivery of the Product. You must provide evidence of such acceptance by the end user to Rimage Solutions upon request.

**3.2. Enforcement Cooperation.** You agree to immediately notify us of any known or suspected breach of the Rimage Solutions Customer Agreement or other unauthorized use of the Products and to assist us in the enforcement of the terms of the Rimage Solutions Customer Agreement.

## 4. Identification as Reseller.

Subject to this Reseller Agreement, you are permitted to identify yourself as an Rimage Solutions "Reseller" solely in connection with your resales of Product. You may not use any Rimage Solutions trademark, logo or service mark ("**Rimage Solutions Marks**") except as permitted by Rimage Solutions Marketing Guidelines in Section 17 of this agreement. All goodwill arising from your use of Rimage Solutions Marks inures to the benefit of Rimage Solutions.

## 5. Payment and Delivery.

**5.1. Fees.** A non-refundable, non-cancelable payment to Rimage Solutions is due when you or the end user submits the Order online.

**5.2. Delivery.** Upon receipt of payment, we will deliver the applicable Software access, or other information necessary for end users to use or access the applicable Products directly to the contact specified in the Order in accordance with our standard procedures. If we deliver the access details or logins to you, you agree that you will, in turn, deliver them directly to the end user specified in the Reseller Order, and not to use or access the Software, in any way. You must either delete all such confidential information promptly thereafter or maintain them in confidence.

**5.3. Taxes.** Payments made by end user or you under this Reseller Agreement exclude any taxes or duties payable in respect of the Products in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by Rimage Solutions, the end user or you must pay to Rimage Solutions the amount of such taxes or duties in addition to any fees owed under this Reseller Agreement. Notwithstanding the foregoing, you may have obtained an exemption from relevant taxes or duties as of the time such taxes or duties are levied or assessed. In that case, you will have the right to provide to Rimage Solutions any such exemption information, and Rimage Solutions will use reasonable efforts to provide such invoicing documents as may enable you to obtain a refund or credit for the amount so paid from any relevant revenue authority if such a refund or credit is available.

**5.4. End User Pricing and Payment; Refunds.** You will not set your own pricing to each end user, and the pricing information posted on our website will be final. You are solely responsible for all of your costs and expenses. You may not terminate a Reseller Order or receive any refunds due to non-payment by an end user. If Rimage Solutions provides any refund to an end user under our standard return policy, Rimage Solutions, at its option, will refund the applicable amounts either directly to the end user or to you for distribution to the end user. You agree to cooperate with Rimage Solutions in connection with any such refund.

## **6. Feedback.**

If you provide any feedback, comments, suggestions, ideas, description of processes, or other information to us about or in connection with the Products or our Reseller program, including without limitation any ideas, concepts, know-how or techniques contained therein ("**Feedback**"), then you grant us a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, without any compensation to you or any restriction or obligation on account of intellectual property rights or otherwise. For clarity, no Feedback will be deemed your Confidential Information, and nothing in this Reseller Agreement (including without limitation Section 12 (Confidentiality) limits Rimage Solutions' right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

## **7. Separate Rimage Solutions Expert Program.**

Entering into this Reseller Agreement does not qualify you as an Rimage Solutions Product Expert or grant you any related rights. If you are interested in our separate Rimage Solutions Expert program, please contact us at [info@carechatz.com](mailto:info@carechatz.com).

## **8. No Use Rights; Rimage Solutions Reserved Rights.**

Only the end user customer of the Products (and its Authorized Users) may use the Products. You are not permitted to use any Products resold under this Reseller Agreement for your own benefit. To the extent that you nevertheless gain any access to the Products, all license restrictions in the Rimage Solutions Customer Agreement apply to you. Notwithstanding anything to the contrary contained in this Reseller Agreement, except for the limited resale right in Section 2 above, Rimage Solutions and its suppliers have and will retain all rights, title and interest (including without limitation all patent, copyright, trademark, trade secret and other intellectual property rights) in and to all Products, service descriptions, documentation, and underlying technology ("**Rimage Solutions' Technology**"), and all copies, modifications and derivative works thereof, including without limitation as may incorporate Feedback. You acknowledge that you are obtaining only a limited right to resell the Products and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights are being conveyed to you under this Reseller Agreement or otherwise.

## 9. Reseller Obligations and Liability.

**9.1. End User Relationships; Business Practices.** You agree not to represent yourself as an agent or employee of Rimage Solutions and agree that we will have primary control over any end user communication regarding the Products once you submit a Reseller Order. You will not make any representations regarding Rimage Solutions, on Rimage Solutions' behalf, or about any Products. You agree not to engage in any deceptive, misleading, illegal, or unethical practices that may be detrimental to Rimage Solutions or its products and agree to comply with all applicable federal, state and local laws and regulations while operating under this Reseller Agreement, including without limitation the U.S. Foreign Corrupt Practices Act and any similar laws or regulations in any applicable jurisdiction. You further agree to comply with all applicable export and import laws and regulations, including U.S. embargo and sanctions regulations and prohibitions on export for certain end uses or to certain users.

**9.2. Indemnity.** You are fully responsible for all liabilities and expenses of any type whatsoever that may arise on account of your resale of Products. You will indemnify, hold harmless and (at Rimage Solutions' option) defend Rimage Solutions from and against any claim, loss, cost, liability or damage, including attorneys' fees, for which Rimage Solutions becomes liable arising from or relating to: (a) any breach or alleged by you of any term of this Reseller Agreement, (b) the issuance by you of any warranty or representation regarding Rimage Solutions or its products or services not specified in the Rimage Solutions Customer Agreement, or (c) any of your other acts or omissions in connection with the marketing or resale of the Products under this Reseller Agreement.

## 10. Termination.

**10.1. Termination.** We may terminate this Reseller Agreement if you materially breach any provision in this Reseller Agreement and fail to cure such breach within five (5) days of written notice of such breach. In addition, either party may terminate this Reseller Agreement for any reason or no reason upon thirty (30) days' written notice to the other party. Rimage Solutions may also terminate this Reseller Agreement immediately upon notice to you if (a) it ceases to offer the current Reseller program or (b) it reasonably believes that continuing hereunder could result in business or legal liability for Rimage Solutions or otherwise harm Rimage Solutions or its end users.

**10.2. Effect of Termination.** You expressly agree that Rimage Solutions will have no obligation or liability to you resulting from termination or expiration of this Reseller Agreement in accordance with its terms. Upon termination or expiration of this Reseller Agreement: (a) you must immediately cease identifying yourself as an Rimage Solutions Reseller and using Rimage Solutions Marks in connection with your resale activities hereunder, (b) you must destroy all Confidential Information in your possession and certify destruction (unless we request that you return such materials to us) and (c) Sections 5 (Payment and Delivery) (but only with respect to

Reseller Orders completed during the Term), 6 (Feedback) and 8 (No Use Rights; Rimage Solutions Reserved Rights) through 15 (General) will survive.

## **11. Changes to Agreement.**

From time to time, we may modify this Reseller Agreement. The version of this Reseller Agreement in place at the time you submit each Reseller Order is the version that will govern such order. We will use reasonable efforts to notify you of these changes through communications through our website or other forms of communication, but we also suggest that you bookmark this Reseller Agreement and read it periodically.

## **12. Confidentiality.**

Except as otherwise set forth in this Reseller Agreement, each party agrees that all code, inventions, know-how, business, technical and financial information it obtains (as "**Receiving Party**") from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Rimage Solutions Technology and any performance information relating to the Products shall be deemed Confidential Information of Rimage Solutions without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of the Receiving Party who had no access to such information; or (v) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.

## **13. Rimage Solutions' Commitments; DISCLAIMER OF WARRANTIES.**

For the avoidance of doubt, any and all commitments, indemnities and other terms and conditions offered by Rimage Solutions with respect to use of the Products are made directly by Rimage Solutions to the end user in accordance with the Rimage Solutions Customer

Agreement and do not extend to you as a Reseller. We make NO WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, TO you as a RESELLER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE AND NON-INFRINGEMENT.

## **14. LIMITATION OF LIABILITY.**

**14.1. Waiver of Consequential Damages.** TO THE FULLEST EXTENT ALLOWED BY LAW, NEITHER RIMAGE SOLUTIONS NOR ITS SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

**14.2. Liability Cap.** TO THE FULLEST EXTENT ALLOWED BY LAW, RIMAGE SOLUTIONS' AND ITS THIRD-PARTY SUPPLIERS' ENTIRE LIABILITY UNDER THIS RESELLER AGREEMENT SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY RESELLER TO RIMAGE SOLUTIONS IN RESPECT OF THE RESELLER ORDER THAT IS THE SUBJECT OF THIS RESELLER AGREEMENT.

## **15. Dispute Resolution; Governing Law**

**15.1. Dispute Resolution; Arbitration.** In the event of any controversy or claim arising out of or relating to this Reseller Agreement, the parties hereto shall consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach a settlement within a period of 60 days, any unresolved controversy or claim arising out of or relating to this Reseller Agreement shall proceed to binding arbitration under the Rules of Arbitration of the International Chamber of Commerce. The parties shall seek to mutually appoint an arbitrator. If the parties cannot agree on a single arbitrator, then there shall be three (3) arbitrators: one selected by each party, and a third selected by the first two. Arbitration will take place in Polk or Hillsborough counties of the State of Florida. All negotiations and arbitration proceedings pursuant to this Section 15.1 will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions. The language of the arbitration shall be English.

**15.2. Governing Law; Jurisdiction.** This Reseller Agreement will be governed by and construed in accordance with the applicable laws of the State of Florida, USA, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding that is not otherwise subject to the arbitration provisions of Section 15.1 (Dispute Resolution; Arbitration) must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in Lakeland, Florida, USA, and each party irrevocably submits to the sole and exclusive

personal jurisdiction of the courts in Polk or Hillsborough counties, Florida, USA, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party. Notwithstanding the foregoing, Rimage Solutions may bring a claim for equitable relief in any court with proper jurisdiction.

**15.3. Injunctive Relief; Enforcement.** Notwithstanding the provisions of this Section 15, nothing in this Reseller Agreement shall prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.

**15.4. Exclusion of UN Convention and UCITA.** The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Reseller Agreement. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Reseller Agreement regardless of when or where adopted.

## **16. Government End Users.**

The Product is commercial computer software. If the user or licensee of the Products is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Reseller Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Products were developed fully at private expense. All other use is prohibited.

## **17. General.**

This Reseller Agreement is the entire agreement between you and Rimage Solutions relating to the resale of Rimage Solutions products as described in this Reseller Agreement and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Products or any other subject matter covered by this Reseller Agreement. If any provision of this Reseller Agreement is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect. This Reseller Agreement may not be modified or amended except as described in Section 11 (Changes to Agreement) or otherwise with the written agreement of Rimage Solutions (which may be withheld in its complete discretion without any requirement to provide reasons). As used herein, "including" (and its variants) means "including without limitation" (and its variants). If either party to this Reseller Agreement breaches any provision of this Reseller Agreement relating to Confidential Information or intellectual property rights, there may not be an adequate remedy available solely at law; therefore, an injunction, specific performance or other form of equitable relief or monetary damages or any combination thereof may be sought by the injured party to this Reseller Agreement. No failure or delay by the injured party to this Reseller Agreement in

exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder at law or equity. The parties are independent contractors. This Reseller Agreement shall not be construed as constituting either party as a partner of the other or to create any other form of legal association that would give on party the express or implied right, power or authority to create any duty or obligation of the other party.

### **Rimage Solutions Marketing Guidelines and Our logos**

- a) Rimage Solutions and its product logos (including “CareChatz”) are distinctive graphic renditions. You may use the company logo or product logos in a blog or news article, publication, book or other online or offline medium, or on your website in reference to the respective Rimage Solutions product, without our written consent, provided that the logos are duplicated exactly as shown in the preceding link, and the ® symbol (or the ™ symbol, as applicable) attached to the shoulder of the logo as in the attached link is retained. All other usages of the Rimage Solutions logos require the written approval of Rimage Solutions.
- b) We've developed these guidelines to ensure our company trademarks are properly displayed and remain undiluted across our customer, partner, and plugin ecosystems. Among the reasons our trademark guidelines are important include:
  - (1) We want our brand and brand names to be associated with awesome development and IT tools. The more focused the use of the brand, the more powerful it will be in the community.
  - (2) More people and companies are building plugins and becoming partners or ambassadors of Rimage Solutions and our products. They are asking for additional guidelines around how to market, design and brand their plugins and products so they (1) complement the Rimage Solutions product "family", and (2) are distinct from Rimage Solutions products and brands while remaining part the Rimage Solutions community.
  - (3) We want to avoid potential conflicts that may arise. If the brand is not clearly differentiated, customers may struggle to identify who to work with or what to buy. As a way of protecting our brands, as well as the best interests of our 3rd party affiliates and customers, we are sharing publishing these expanded guidelines.

Should you have any questions concerning this Reseller Agreement, or if you desire to contact Rimage Solutions for any reason, please contact us at Rimage Solutions, 124 Seven Oaks Dr, Mulberry, FL 33860.

(Last Revised: Feb 24, 2017)