All references to Riverbed in these Terms and Conditions should be read as “Contractor (immixTechnology, Inc.), acting by and through its supplier, Riverbed.”

**TERMS AND CONDITIONS FOR RIVERBED PRODUCTS AND SERVICES**

1. These terms and conditions shall apply to the sale or license of Products or Services from Riverbed Technology, Inc. (“Riverbed”) to the buyer on the applicable Order (“Buyer”). These provisions constitute the agreement between Riverbed and Buyer with respect to such Products and Services, to the exclusion of any pre-printed or contrary terms of any purchase order (or similar document) and supersedes and cancels any prior discussions, understandings or representations between the parties. These provisions may not be modified or waived, except by a mutual signed writing, and, acceptance is expressly limited to these terms. If there is a mutually signed agreement (not including any purchase order or similar document) expressly covering the sale or license of Products or Services by Riverbed to Buyer at the time the order is accepted by Riverbed, however, then the express terms of that agreement will govern. “Products” are Riverbed’s currently generally available products, including hardware, software and documentation, listed on Riverbed’s then current price list. “Services” means Riverbed’s currently generally available maintenance and support services and any professional services listed on Riverbed’s then current price list.

2. Riverbed will sell to Buyer and Buyer will purchase from Riverbed (for Buyer’s own internal use) the Products and/or Services set forth in a Riverbed-issued sales quotation signed and submitted by Buyer and accepted by Riverbed (each an “Order”). The terms and conditions of this Agreement will apply to the Order and supersede any different or additional terms on Buyer’s purchase orders. Purchase orders issued by Customer to Riverbed are solely for the purpose of requesting delivery dates and quantities and specifying the ship-to and bill-to addresses. All Orders are subject to acceptance by Riverbed (which acceptance may be evidenced by Riverbed’s shipment of the Order). On original shipment, Products will be new (other than units that were previously used in a customer evaluation). The Products and Services are not for resale.

3. Inspection/Acceptance. The Contractor (immixTechnology, Inc.) can only, and shall only tender for acceptance those items that substantially conform to the software manufacturer’s ("RIVERBED") published specifications. Therefore, items delivered shall be considered accepted upon delivery. The Government reserves the right to inspect or test any supplies or services that have been delivered. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights:
   (1) Within the warranty period; and
   (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

4. Subject to Buyer’s compliance with all terms herein and annual advance payment of Riverbed’s then standard support and maintenance fees for the level of support purchased (i.e., Silver Gold, or Platinum Level), Riverbed will provide its then standard corresponding support and maintenance Services, the current version of which is located at www.riverbed.com/supportservicedescription (“Support Services”). Riverbed retains ownership of any intellectual property resulting from Support Services. If, with respect to a particular Product, there is a lapse in Support Services, any subsequent purchase of Support Services will be deemed purchased retroactive and the parties will work to true-up the account. Buyer may purchase Support Services for a Product that provides for up to three (3) years of support. If Buyer purchases Support Services for a Product that provides for more than one year of support, the support period in excess of one year may be cancelled by Buyer by providing written notice to the other party, and any unused, prepaid amount will be refunded to Buyer within 45 days of Riverbed’s receipt or provision, as applicable, of such written notice. For example, if Support Services are cancelled after one year of a three year period, Riverbed will refund two years of prepaid,
unearned support. All obligations of Riverbed to provide Support Services on that Product will be terminated on receipt of the cancellation notice. If applicable, any professional Services provided by Riverbed will be subject to the additional terms located at www.riverbed.com/legal/professionalservicestems.

5. Any products sold as Spares are sold as replacement products only and are not licensed for independent use except in accordance with this paragraph. Spares may only be used when a fully licensed (non-Spare) unit is no longer operational, has been disconnected from the Buyer’s network and power supply, and has been replaced with the Spare unit. Upon such replacement, Buyer shall immediately notify Riverbed and the Spare unit becomes licensed under the terms of this Agreement and the unit removed from production becomes the Spare and subject to the preceding terms. Any use by Buyer contrary to the foregoing is prohibited; if Buyer does use the Spare in a manner contrary to the foregoing, then in addition to any other remedies that may be available Buyer shall promptly pay Riverbed the difference between the then-current applicable Product price and the price paid for the applicable Spare. “Spare” means a Product purchased by Buyer from Riverbed and designated as a Spare on the Order or Riverbed’s then current price list.

6. No intellectual property rights are transferred. Any software incorporated into or provided for use in or with a Product (whether initially, as part of maintenance or support or otherwise) is not sold, but rather is licensed solely for Buyer’s internal use in or with that Product strictly in accordance with the accompanying documentation and any other use restrictions applicable for that Product. Such license is non-exclusive, non-transferable, non-sublicensable and does not include the right to (and Buyer will not) modify, reverse engineer (except to the extent applicable law prohibits reverse engineering restrictions), incorporate or use in any other works, create derivatives of, or copy any portion of such software, or use the software or Product for the benefit of any third party. Buyer will not remove any designations or notices from any Product and will not use the Product for the benefit of any third party. Buyer may not, without Riverbed’s prior written consent, publish or provide to any third-party results of any benchmark or comparison tests of the Products. Buyer shall keep confidential and not disclose to any other party or use, except as required by this Agreement, non-public information obtained from Riverbed, including, without limitation, all products, code, inventions (whether patentable or not), algorithms, designs, know-how, ideas, product development plans, information on Riverbed’s customer care website, and all customer, business, technical, training and financial information (collectively, “Confidential Information”); provided, however, that Buyer shall be prohibited from disclosing or using information (i) that at the time of disclosure, Buyer can document is generally available to the public or becomes publicly available through no act or omission of any party having a confidentiality obligation with respect to such information, (ii) that is or has been disclosed to Buyer by a third party who is not under (and to whom such party does not owe) an obligation of confidentiality with respect thereto, or (iii) that is or has been independently developed by Buyer without use of the Confidential Information. Because of the unique and proprietary nature of the Confidential Information, it is understood and agreed that the Riverbed’s remedies at law for a breach by the receiving party of its obligations under this paragraph will be inadequate and that Riverbed will be entitled to equitable relief (including, without limitation, provisional and permanent injunctive relief) in addition to any other remedies. If a Product is provided to any unit or agency of the United States Government (“U.S. Government”), the following provisions shall apply: All software and accompanying documentation are deemed to be commercial, including computer databases, related documentation, technical data and manuals as defined in FAR 2.101. Therefore, pursuant to FAR 12.212 and DFARS 227.7202, any use, modification, reproduction, release, performance, display or disclosure of the software and accompanying documentation by the U.S. Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms herein.

7. Riverbed warrants only to Buyer that the Products, when shipped to Buyer by Riverbed, will conform in all material respects to the applicable published specifications for such Products. Such warranty does not apply to units that have been damaged, mishandled, mistreated or used or maintained or stored other than in conformity with such specifications and Riverbed's instructions. EXCEPT FOR BODILY INJURY, BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE FOREGOING WARRANTY SHALL BE THE REPAIR OR REPLACEMENT OF OR (AT RIVERBED'S OPTION OR IF REPAIR OR REPLACEMENT IS IMPractical) REFUND FOR RETURNED NON-
CONFORMING UNITS OF PRODUCT FOR WHICH FULL DOCUMENTATION AND PROOF OF NON-CONFORMITY IS PROVIDED TO RIVERBED (AND FOR WHICH A RIVERBED RMA HAS BEEN ISSUED) WITHIN ONE YEAR IN THE CASE OF HARDWARE COMPONENT, OR NINETY DAYS IN THE CASE OF SOFTWARE (WHETHER OR NOT EMBEDDED), AFTER THE ORIGINAL NON-CONFORMING UNITS OF HARDWARE (BUT NOT REPLACEMENTS) ARE SHIPPED BY RIVERBED. EXCEPT FOR THE FOREGOING WARRANTIES, RIVERBED DOES NOT MAKE (AND HAS NOT AUTHORIZED ANYONE TO MAKE) ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

8. Riverbed shall hold Buyer and its officers, directors, agents and employees harmless from liability resulting from infringement by the Products of any United States patent issued or copyright registered as of the date of this Agreement, provided Riverbed is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise; Riverbed will not be responsible for any settlement it does not approve in writing. The foregoing obligation of Riverbed does not apply with respect to Product or portions or components: (i) not supplied by Riverbed, (ii) made in whole or in part in accordance to Buyer specifications or requests, (iii) which are modified after shipment, if the alleged infringement relates to such modification, (iv) combined, processed or used with other products, processes or materials where the alleged infringement relates to such combination, process or use, (v) where Buyer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where the infringement is incident to use of the Product but does not result primarily from the Product and its intended application. For U.S. Government purposes only, any indemnification mentioned herein shall be valid and enforceable against the U.S. Government so long as consistent with Federal law or regulation.

9. EXCEPT FOR BODILY INJURY, OR WHERE OTHERWISE REQUIRED BY LAW, RIVERBED WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS IN EXCESS IN THE AGGREGATE OF THE AMOUNTS PAID TO RIVERBED HEREUNDER DURING THE TWELVE MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE OR (II) ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES. RIVERBED SHALL HAVE NO LIABILITY FOR ANY FAILURE OR DELAY DUE TO MATTERS BEYOND ITS REASONABLE CONTROL OR FOR ANY ALLOCATION OF PRODUCTS BETWEEN ITS CUSTOMERS IN THE EVENT OF A SHORTAGE.

10. If any clause or portion thereof is found to be unenforceable, it will be modified or excised to the minimum extent so that this Agreement shall otherwise remain in full force and effect. Buyer’s rights and obligations are not assignable or transferable without the prior written consent of Riverbed; Riverbed may assign in whole or in part (except that Riverbed shall obtain the consent of the U.S. Government where the U.S. Government is the Buyer hereunder and such consent is required). Buyer has not relied on the availability of any future version of a product purchased under this Agreement or any future product in executing this Agreement. Buyer shall comply with all laws and regulations, including without limitation export laws and restrictions and regulations of the Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or other United States or foreign agency or authority, and shall not export, or allow the export or re-export of, any Product in violation of any such restrictions, laws or regulations.
DESCRIPTION OF RIVERBED MAINTENANCE AND SUPPORT SERVICES

Riverbed offers a choice of three support levels, Silver, Gold, and Platinum, so customers can choose the plan that fits their specific requirements, IT needs, and business goals. This flexibility also means that customers can easily adjust their support levels as their business grows and evolves. Unless otherwise indicated below, all levels of Riverbed Support Services include the services described in this document.

1. Software Maintenance

a. Software Updates. Buyer shall be entitled to receive, and Riverbed shall provide Buyer e-mail notification of, all maintenance releases, updates and upgrades to Product software as Riverbed, in its sole discretion, makes them generally available without additional charge to Riverbed’s Support Services Customers. The contents of all maintenance releases and updates shall be decided upon by Riverbed in its sole discretion. Buyer may obtain updates either through delivery of a machine-readable copy pursuant to instructions contained in the release notification or by downloading the updates from Riverbed’s customer care website (support.riverbed.com). Product software maintenance releases and updates may only be installed on Products that are covered by then current support and maintenance services.

b. Supported Software. Riverbed supports the current major release of Product software, plus certain prior versions of software in accordance Riverbed’s support policy available at: www.riverbed.com/supportpolicy.

c. Error Corrections. Riverbed shall use its reasonable efforts to correct any reproducible programming error in the Product software attributable to Riverbed with a level of effort commensurate with the severity of the error, provided that Riverbed shall have no obligation to correct all errors in the Product software. Upon identification of any programming error, Buyer shall notify Riverbed of such error and shall provide Riverbed with enough information to reproduce the error. Riverbed shall only be responsible for correcting errors that are (1) attributable to Riverbed and (2) reproducible by Riverbed on unmodified Product software as delivered to Buyer.

d. Hardware Components. Riverbed will use reasonable efforts at Riverbed’s designated facility to repair or replace defective hardware portions of Products, unless damaged, mishandled, mistreated, used, maintained or stored other than in conformity with applicable specifications and Riverbed's instructions.

2. Return Material Authorization

a. Return Material Authorization. Before returning any Product, Buyer must contact Riverbed Support and obtain a Return Material Authorization (RMA) number by calling the designated support telephone number or logging a request via the Support website. If Riverbed Support verifies that the Product is likely to be defective, Riverbed will issue Buyer an RMA number, which allows Buyer to return the defective unit to Riverbed for repair or replacement.

b. Shipping. Riverbed cannot accept any Product without an RMA number on the package. Buyer must deliver the defective Product along with the RMA number to Riverbed. If Buyer ships the Product, Buyer assumes the risk of damage or loss in transit. Buyer must use the original container (or the equivalent) and pay the shipping charge. Riverbed will provide Buyer with the shipping address at the time of RMA issuance.

c. Repair or Replace. Riverbed may replace or repair the Product with either a new or reconditioned Product.

3. Hardware Replacement
a. **Silver-level Customers**: For RMAs that are issued by Riverbed within the first ninety (90) days after original Product shipment, at Buyer’s request, Riverbed will ship an advance replacement unit via express delivery. In such circumstance, Buyer has 30 days to return the defective unit after the replacement has been shipped. If the defective unit is not returned within this time, Riverbed will invoice the Buyer for the list price (less Buyer’s applicable discount) of the replacement unit. Advance replacement for requests confirmed by 2:00 pm PST USA by Riverbed will be shipped for next business day delivery; delivery time may depend on International customs clearing and export/import laws and regulations for non-US destinations. For RMAs that are issued by Riverbed after the first ninety (90) days after original Product shipment, at Buyer’s request, Riverbed will ship a replacement unit within ten (10) business days via ground delivery once Riverbed confirms receipt of the defective unit at the shipping address designated by Riverbed at the time of RMA issuance.

b. **Gold-level Customers**: For RMAs that are issued by Riverbed, at Buyer’s request, Riverbed will ship an advance replacement unit via express delivery. In such circumstance, Buyer has 30 days to return the defective unit after the replacement has been shipped. If the defective unit is not returned within this time, Riverbed will invoice the Buyer for the list price (less Buyer’s applicable discount) of the replacement unit. Advance replacement for requests confirmed by 2:00 pm PST USA by Riverbed will be shipped for next business day delivery; delivery time may depend on International customs clearing and export/import laws and regulations for non-US destinations.

c. **Platinum-level Customers**: For RMAs that are issued by Riverbed, at Buyer’s request, Riverbed will either (a) ship an advance replacement unit via express delivery, or (b) provide on-site Product repair or replacement within 4 to 24 hours, depending on location. International on-site support shall be provided within 4 to 24 hours, depending on location, as on-site support is not available in all locations. Please contact Riverbed to determine if on-site support is available in your area, and if it is, the applicable on-site response time. Riverbed will use reasonable endeavors to establish service spares and trained local field engineers close to the installation location within thirty (30) days of (a) shipment of the applicable Product, (b) notice from Buyer that the installation location has moved, or (c) upgrade by Buyer from Silver or Gold to Platinum support; on-site response times may be impacted until such service spares and local field engineers are established. If the Product is shipped to Buyer for next business day delivery, Buyer has 30 days to return the defective unit after the replacement has been shipped. If the defective unit is not returned within this time, Riverbed will invoice the Buyer for the list price (less Buyer’s applicable discount) of the replacement unit. Advance replacement for requests confirmed by 2:00 pm PST USA by Riverbed will be shipped for next business day delivery; delivery time may depend on International customs clearing and export/import laws and regulations for non-US destinations.

4. Customer Support

a. **Support**: Riverbed will provide Buyer with technical support by the following methods: World Wide Web, email and telephone. Such support will include:
   i. - Assistance related to questions on the installation and operational use of the Product;
   ii. - Assistance in identifying and verifying the causes of suspected errors in the Product; and
   iii. - Providing workarounds for identified Product errors or malfunctions, where reasonably available to Riverbed.
   iv. Buyer will designate the contact information of two named individuals to act as support liaisons to utilize the support and will ensure that such persons will be properly trained in the operation and usage of the Product; Riverbed will not be obligated to provide support or maintenance services to any other individuals. Buyer agrees to provide reasonable access to all necessary personnel to answer questions about any problems reported by Buyer regarding the Product. Buyer also agrees to promptly implement all updates and error corrections provided by Riverbed under this Agreement. Upon request, Buyer will provide access for on-line diagnostics of the Product during error diagnosis.

b. **Support Web Site**: Riverbed may provide Buyer with an authorized account to access Riverbed’s Support website. Riverbed may make available the following services through its Support web site:
   i. - Product software releases that can be downloaded by Buyer;
   ii. - Documentation for Product;
iii. Issuing trouble reports identified by Buyer through Riverbed’s Support website;
iv. Issuing suggestions for enhancements through Riverbed’s Support website.

c. Telephone Support. Telephone support shall include:
i. Direct Hotline Support: Buyer may contact Support directly 7x24 via telephone.
ii. 24-Hour Voice Messaging System: System allows Buyer to leave messages or questions for Support.

d. Special Services. Buyer may request maintenance and support services not specifically provided for in this Agreement. Buyer acknowledges that, if provided, all such services shall be at Riverbed’s then current rates, terms and conditions for such services.

5. Product Obsolescence

Riverbed’s End of Sale and End of Support policy is available at: www.riverbed.com/supportpolicy.

6. Support Service Levels

A problem is defined as a situation where the software does not function as intended. The detail below defines priority levels of each problem type. Riverbed will use commercially reasonable efforts to provide the service level responses included below.

Priority 1

• Definition: A catastrophic problem that may severely impact the Buyer’s ability to conduct business. This may mean that the Buyer’s systems and/or Product are down or not functioning and no procedural workaround exists.
• Riverbed Response: Riverbed to respond within one (1) hour. The objective is to get the Buyer back on line within 24 hours and to downgrade the problem severity accordingly. Efforts to isolate, diagnose, and deliver a work-around or repair shall be continuous. When the severity level has been changed to “Priority 2” or “Priority 3,” the appropriate guidelines should be followed.

Priority 2

• Definition: A high-impact problem in which the Buyer’s operation is disrupted but there is capacity to remain productive and maintain necessary business-level operations. The problem may require a fix be installed on the Buyer’s system prior to the next planned commercial release of the software.
• Riverbed Response: Riverbed to respond within four (4) hours following receipt of a call. Efforts to isolate, diagnose, and deliver a work-around or repair problems shall be continuous during business hours.

Priority 3

• Definition: A medium-to-low impact problem that involves partial loss of non-critical functionality. The problem impairs some operations but allows the Buyer to continue to function. This may be a minor issue with limited loss or no loss of functionality or impact to the Buyer’s operation.
• Riverbed Response: Riverbed to respond within eight (8) hours following the receipt of a call. Action should be appropriate to the nature of the escalation.
Priority 4

- **Definition**: Minor problems: all other errors. This includes documentation errors. The inconvenience is slight and can be tolerated.
- **Riverbed Response**: Riverbed to respond within the next business day following the receipt of a call during normal business hours. Riverbed’s support organization will respond in a manner appropriate to the nature of the call.

7. Escalation Procedures

If problems are not resolved as targeted above, Buyer may escalate the issue to appropriate Riverbed management personnel. Riverbed provides systematic escalation management to Buyer with current service plans. The Riverbed escalation process notifies levels of management throughout the life cycle of the technical issue. This ensures that the appropriate resources resolve outstanding technical problems as efficiently as possible.

<table>
<thead>
<tr>
<th>SEVERITY</th>
<th>Notifications</th>
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</thead>
<tbody>
<tr>
<td>Escalation Engineer</td>
<td>Manager</td>
</tr>
<tr>
<td>1. Critical</td>
<td>Within 1 Hour</td>
</tr>
<tr>
<td>2. High</td>
<td>Within 4 Hours</td>
</tr>
<tr>
<td>3. Minor</td>
<td>Within 8 Hours</td>
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<tr>
<td>4. Informational</td>
<td>Within 24 Hours</td>
</tr>
</tbody>
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**NOTIFICATIONS**:
- **Escalation Engineer**: Within 24 Hours
- **Manager**: Within a specified hour
- **Executive Staff**: Within a specified hour