riverbed

RIVERBED HARDWARE EXHIBIT

This Exhibit sets forth terms related to Hardware and is incorporated as part of the General Terms attached hereto and (located at www.riverbed.com/license) ("**General Terms**"). Other Exhibits do not apply to the offerings ordered under this Exhibit unless expressly referenced as being applicable. Capitalized terms used but not defined in this Exhibit have the meaning assigned to them in the General Terms.

1. **HARDWARE GENERALLY**.

   1.1. **Hardware-based Solutions**. Hardware-based Solutions require the purchase of an associated Software license for such Solutions to function; Hardware may not be used and will not function without a valid corresponding Software license deployed on such Hardware. Unless otherwise agreed by Riverbed, Customer must procure Hardware concurrently with associated Software.

   1.2. **Installation**. As between Customer and Riverbed, Customer is responsible for installation of the Hardware, except when additional implementation Professional Services have been ordered.

   1.3. **Software**. For clarity, the license for Software that is provided in conjunction with a Hardware unit is only valid for use with that Hardware unit, unless the Hardware unit is replaced pursuant to Riverbed's Hardware warranty set forth below. Any Software included with or embedded on the Hardware is subject to the Software Exhibit.

2. **DELIVERY**. Riverbed will mark all Hardware for shipment to Customer's address set forth on the Order. Title to Hardware (other than any Software included therein) passes to Customer upon Delivery. Riverbed may select the carrier if Customer does not designate a carrier in writing or if the Customer's designated carrier does not pick up Hardware at Riverbed's applicable warehouse or place of production at the time it is available for pick up. Customer is responsible for and will pay all shipping charges. Subject to the terms and conditions of the Agreement, Riverbed will use reasonable commercial efforts to fulfill promptly (by full or partial shipment) all of Customer's Orders for Hardware, insofar as practical and consistent with Riverbed's then-current lead-time schedule, shipping schedule, access to supplies on acceptable terms and allocation of available Hardware and capacity among Riverbed customers; each partial shipment will be deemed a separate sale and may be invoiced upon such shipment. If any Order for Hardware exceeds Riverbed's inventory, Riverbed may allocate available inventory at Riverbed's discretion, without liability to Customer or any third party.

3. **LIMITED WARRANTY**.

   3.1. **Hardware Warranty**. Riverbed warrants to Customer that the Hardware upon original shipment by Riverbed will conform in all material respects to the applicable published specifications within the Documentation for such Hardware during the Warranty Period. "**Warranty Period**" means a period commencing on the date of original shipment by Riverbed and continuing for one year. Shipment of a replacement Hardware unit will not extend the Warranty Period. Hardware will be new (other than Hardware previously provided in a customer evaluation or replacement Hardware units provided as part of Support Services or warranty) on original shipment from Riverbed unless otherwise designated by Riverbed at the time of Order or on its then-current price list (e.g., all Hardware SKUs designated with a "-E" are refurbished). Customer's sole and exclusive remedy, and Riverbed's sole and exclusive obligation, for any breach of the foregoing warranty will be, at Riverbed's option, the repair or replacement of or (at Riverbed's option if repair or replacement is impractical) refund of the fees received by Riverbed for returned non-conforming Hardware units for which full documentation and proof of non-conformity is provided to Riverbed (and for which a Riverbed RMA has been issued) within the applicable Warranty Period. Customer bears the cost of freight and insurance to the point of repair or return. Riverbed will bear the cost of freight and insurance for return of goods to Customer.

   3.2. **Limitations**. The warranty in this Section does not extend to any Hardware that (a) is modified or altered; (b) is not maintained and stored in accordance with Riverbed's maintenance recommendations and instructions; (c) has its serial number removed or altered; (d) is damaged (including by electrical power surges), mishandled, or treated with abuse, negligence or other improper treatment (including use outside the recommended environment or in violation of this Agreement); or (e) is not used in accordance with the applicable Documentation.

   3.3. **Disclaimer**. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT, RIVERBED PROVIDES THE HARDWARE "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY AND NONINFRINGEMENT. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.