



## PROFESSIONAL SERVICES TERMS & CONDITIONS

### FOR RSA SECURITY DIVISION PRODUCTS

THESE PROFESSIONAL SERVICES TERMS & CONDITIONS ("AGREEMENT") ARE EFFECTIVE AS OF THE LATER DATE OF EXECUTION OF THE APPLICABLE STATEMENT OF WORK OR QUOTATION MAKING REFERENCE TO THIS AGREEMENT.

ANY AND ALL REFERENCES TO "CUSTOMER" SHALL BE DEEMED TO MEAN THE CUSTOMER SET FORTH IN AN APPLICABLE STATEMENT OF WORK OR QUOTATION.

If Customer is located in the United States, Mexico or South America, then this is a legal agreement between the Customer and RSA with "RSA" meaning RSA Security LLC.

If Customer is located outside of the United States, Mexico or South America, then this is a legal agreement between the Customer and RSA, with "RSA" meaning (i) the local EMC sales subsidiary, if Customer is located in a country in which RSA does business through a local EMC Corporation sales subsidiary; or (ii) EMC Information Systems International ("EISI"), if Customer is located in a country in which EMC Corporation does not have a local sales subsidiary). THIS AGREEMENT SETS FORTH THE GENERAL TERMS AND CONDITIONS UNDER WHICH CUSTOMER MAY PERIODICALLY ENGAGE RSA TO PROVIDE CERTAIN PROFESSIONAL, EDUCATIONAL, OPERATIONAL AND TECHNICAL SERVICES ("SERVICES") TO CUSTOMER ON A PROJECT BASIS PURSUANT TO A STATEMENT OF WORK THAT WILL BE ENTERED INTO BETWEEN RSA AND CUSTOMER ("SOW") FOR EACH ENGAGEMENT.

This Agreement may be superseded by any written agreement signed by both Customer and RSA.

#### 1. DEFINITIONS.

**A.** "Deliverables" means any reports, analyses, scripts, code or other work results which have been delivered by RSA to Customer within the framework of fulfilling obligations under the SOW.

**B.** "Proprietary Rights" means all patents, copyrights, trade secrets, methodologies, ideas, concept, inventions, know-how, techniques or other intellectual property rights of a party.

#### 2. SERVICES.

RSA shall provide the services described in a SOW that details the relationship of the parties with regard to a specific project. Each SOW shall (i) be signed by the parties; (ii) incorporate by reference this Agreement; and (iii) state the pertinent business parameters, including, but not limited to, pricing, payment, expense reimbursement, and a detailed description of the Services to be provided. In case of conflict between the SOW and the terms of this Agreement, the SOW shall normally take precedence. However, to the extent that the SOW contains terms that conflict with terms in the Agreement pertaining to intellectual property and/or proprietary rights, indemnification, warranty (including remedies and disclaimers), and/or limitation of liability, the conflicting terms in the SOW shall supersede those in the Agreement only if the SOW clearly indicates that the parties are intentionally overriding the terms in the Agreement solely for purposes of such SOW.

#### 3. TERM AND TERMINATION.

**C. Term; Survival.** The term of this Agreement commences on the later date of execution of an applicable SOW and shall remain in effect unless terminated as provided below. Upon any termination of this Agreement, Sections 1, 2, 3, 4, 5, 6 7(B), and 8 through 13 hereof shall survive in accordance with their terms. Termination of this Agreement or any SOW shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer of its obligation to pay all fees and expenses for all Services performed, including any Deliverables associated with such Services, as of the date of termination.

**D. Termination for Convenience.** Either party may terminate this Agreement for convenience by providing the other with written notice, which termination shall become effective upon the later of (1) fourteen days after receipt of such notice by such other party or (2) completion and payment for the Services set forth in any SOW(s) effective on the date of receipt of such notice. A termination for convenience for any SOW shall only be permitted if expressly agreed in the SOW.

**E. Termination for Breach.** Either party may notify the other in writing in case of the other's alleged breach of a material provision of this Agreement and/or an applicable SOW. The recipient shall have thirty (30) days from the date of receipt of such notice to effect a cure. If the recipient of the notice fails to effect a cure within such period, then the sender of the notice shall have the option of sending a written notice of termination of the applicable SOW(s), or the Agreement if the breach affects multiple SOWs, which notice shall take effect upon receipt.

#### **4. PROPRIETARY RIGHTS.**

**A. Grant of Copyright Rights in Deliverables.** Subject to Customer's payment of the applicable amounts due RSA, Customer shall own all copyright rights to the portion of Deliverables that consists solely of written reports, analyses and other working papers prepared and delivered by RSA to Customer in the performance of RSA's obligations under the SOW.

**B. Grant of License Rights in Deliverables.** For the portion of Deliverables that consists of scripts and code, RSA grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of the Agreement or SOW) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Customer's internal business operations, as contemplated by the applicable SOW. The license granted in this section does not apply to (i) Customer furnished materials, and (ii) any other Products or items licensed, or otherwise provided, under a separate agreement.

**C. Reservation of Proprietary Rights.** Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. RSA shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Professional Services provided hereunder, or, subject to RSA's confidentiality obligations to Customer, in using the Deliverables or performing similar Professional Services for any other projects.

#### **5. CONFIDENTIALITY.**

**A. Confidential Information.** "Confidential Information" means any information that is marked "confidential" or "proprietary" or any other similar term or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, is identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Agreement or any purchase order hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which RSA may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated in the above definition of Confidential Information applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, RSA proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice).

**B. Publicity.** Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this Agreement or any SOW entered into hereunder, without the prior written approval of the other, which approval shall not be unreasonably withheld; provided, however, that RSA may identify Customer for reference purposes.

**6. PAYMENT TERMS.** RSA shall submit invoices for fees and reimbursable costs and expenses and Customer shall pay each invoice in the manner specified in the applicable SOW. Customer will also pay all related taxes and withholdings, except for those based on RSA's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to RSA. Subject to RSA's credit approval, all amounts are due in the currency stated on the invoice and in full 30 days after the date of RSA's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate.

#### **7. WARRANTY.**

**A. Warranty.** RSA shall perform Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify RSA of any failure to so perform within ten (10) days after the performance of the applicable portion of the Services. RSA's entire liability, and Customer's sole remedy, for RSA's failure to so perform shall be for RSA to, at its option, (i) use reasonable efforts to correct such failure, and/or (ii) terminate the applicable SOW and refund that portion of any fees received that correspond to such failure to perform.

**B. Disclaimer and Exclusions.** EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO PRODUCTS, SERVICES OR ANY OTHER ITEMS OR MATTERS ARISING HEREUNDER, RSA (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES,

WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INsofar AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

#### **8. LIMITATION OF LIABILITY.**

**A. Limitation on Direct Damages.** RSA'S TOTAL LIABILITY (INCLUDING THE LIABILITY OF ANY SUPPLIER, SUBCONTRACTOR, EMPLOYEE OR AGENT OF RSA), AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH ANY SERVICES PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY RSA'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED (i) US\$1,000,000, FOR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY; AND (ii) THE PRICE PAID BY CUSTOMER TO RSA FOR THE SPECIFIC SERVICE FROM WHICH SUCH CLAIM ARISES, FOR DAMAGE OF ANY TYPE NOT IDENTIFIED IN (i) ABOVE BUT NOT OTHERWISE EXCLUDED HEREUNDER.

**B. No Indirect Damages.** EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF RSA PROPRIETARY RIGHTS (INCLUDING ANY LICENSE GRANTED THEREUNDER), RSA (INCLUDING RSA'S SUPPLIERS, SUBCONTRACTORS, EMPLOYEES AND AGENTS) SHALL (i) HAVE NO LIABILITY TO CUSTOMER FOR ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES, DATA AND/OR USE), EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

**9. GOVERNMENT REGULATIONS.** The Services and any technology delivered in connection therewith pursuant to this Agreement and/or any SOW entered into hereunder may be subject to governmental restrictions on (i) exports from the U.S.; (ii) exports from other countries in which such Services and technology may be provided or located; (iii) disclosures of technology to foreign persons; (iv) exports from abroad of derivative products thereof; and (v) the importation and/or use of such technology included therein outside of the United States (collectively, "**Export Laws**"). Diversion contrary to U.S. law is expressly prohibited. Customer shall, at its sole expense, comply with all Export Laws and RSA export policies made available to Customer by RSA. Customer represents that it is not a Restricted Person, which shall be deemed to include any person or entity: (1) located in or a national of Cuba, Iran, North Korea, Sudan, Syria, or any other countries that may, from time to time, become subject to U.S. export controls for anti-terrorism reasons or with which U.S. persons are generally prohibited from engaging in financial transactions; or (2) on any restricted person or entity list maintained by any U.S. governmental agency. Certain information, Services or technology may be subject to the International Traffic in Arms Regulations. This information, Services or technology shall only be exported, transferred or released to foreign nationals inside or outside the United States in compliance with such regulations.

**10. NOTICES.** Any notices permitted or required under this Agreement and/or any SOW entered into hereunder shall be in writing, and shall be deemed given when delivered (i) in person; (ii) by overnight courier, upon written confirmation of receipt; (iii) by certified or registered mail, with proof of delivery; (iv) by facsimile transmission with confirmation of receipt; or (v) by email, with confirmation of receipt. Notices shall be sent to the address, facsimile number or email address set forth above, or at such other address, facsimile number or email address as provided to the other party in writing.

**11. INDEPENDENT CONTRACTORS.** The parties shall act as independent contractors for all purposes under this Agreement. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other party, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other party, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party.

**12. MISCELLANEOUS.** This Agreement and any SOW(s) entered into hereunder (i) shall constitute the complete statement of the agreement of the parties with regard to the subject matter hereof and (ii) may be modified only by a writing signed by authorized representatives of both parties. Except for the payment of fees, neither party shall be liable under this Agreement or any SOW because of a failure or delay in performing its obligations hereunder on account of any force majeure event, such as strikes, riots, insurrection, terrorism, fires, natural disasters, acts of God, war, governmental action, or any other cause which is beyond the reasonable control of such party. RSA shall not be liable under this Agreement or any SOW because of failure or delay in performing its obligations hereunder on account of Customer's failure to provide timely access to facilities, space, power, documentation, networks, files, software, and Customer personnel that are reasonably necessary for RSA to perform its obligations. Neither party may assign this Agreement to a separate legal entity, without the other party's written consent. Neither party shall unreasonably withhold or delay such consent; provided, however, that such written consent shall not be required if (i) either party assigns this Agreement to a separate entity in connection with a merger, acquisition, or sale of all or substantially all of its assets with or to such other separate entity, unless the surviving entity of the merger, acquisition, or sale of assets is a direct competitor of the other party. Nothing herein shall limit RSA's right to assign its right to receive and collect payments hereunder. All terms of any purchase order or similar document provided by Customer, including but not limited to any pre-printed terms thereon and any terms that are inconsistent, add to, or conflict with this Agreement and/or an SOW, shall be null and void and of no legal force or effect. No waiver shall be deemed a waiver of any prior or subsequent default hereunder. If any part of this Agreement and/or any SOW entered into hereunder is held unenforceable, the validity of the remaining provisions shall not be affected.

**13. GOVERNING LAW.** This Agreement is governed by: (i) the laws of the Commonwealth of Massachusetts when RSA means RSA Security LLC.; (ii) the laws of the applicable country in which the applicable EMC subsidiary is registered to do business when RSA means the local EMC subsidiary, and (iii) the laws of Ireland when RSA means EISI. In each case, the applicability of laws shall

exclude any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods shall not apply. In the event of a dispute concerning this Agreement, Customer consents to the sole and exclusive personal jurisdiction of the courts of competency in the location where EMC is domiciled.

**14. CUSTOM APPLICATION SUPPORT.** If Customer elects to receive Custom Application Support for the Services provided by RSA to Customer, such Support shall be (i) provided pursuant to the terms and conditions set forth in Exhibit A hereto, and (ii) provided for the period specified in the applicable quotation.

**15. TRAINING SERVICES.** If Customer elects to receive Training Services provided by RSA, the terms and conditions set forth in Exhibit B hereto shall apply.

## EXHIBIT A

### **CUSTOM APPLICATION SUPPORT**

This Exhibit A to the Professional Services Agreement between RSA Security LLC (“RSA”) and Customer (the “Agreement”) addresses RSA’s provision of Custom Application Support. Any such support will be provided subject to the terms and conditions of the Agreement and those set forth herein. In the event of a conflict between the terms and conditions of this Exhibit and the terms and conditions of the Agreement, with respect to Custom Application Support, the terms and conditions of this Exhibit shall govern.

#### **1. Definitions**

- (a) Any term not defined herein, but defined in the Agreement, shall be deemed to have that definition identified in the Agreement.
- (b) “Custom Application Support” means a maintenance program offered by RSA on an optional basis which provides its customers with maintenance of custom software developed and/or delivered under a professional services agreement or other equivalent agreement. This optional maintenance program consists of the technical services described in Section 2 below.
- (c) “Custom Application Support Fee” means the fee charged to Customer as quoted by an authorized RSA representative for provision of the Custom Application Support described herein, exclusive of any separate time and materials amounts attributed to additional support services which may be performed by RSA at the election of the Customer.
- (d) "Error" shall mean any reported malfunction, error or other defect in the custom software that can be reproduced by RSA and constitutes a non-conformity from the applicable statement of work.
- (e) “Maintenance Agreement” means an agreement executed by and between Customer and RSA which provides the terms under which RSA supports Customer’s use of RSA’s generally available products.
- (f) “Severe Bug” or “S1 Bug” means a bug that causes a severe problem that prevents customer from performing business critical functions.
- (g) “Enhancement” means an improvement to custom software that results in additional functionality, including upgrades to address patches and/or upgrades of, or other changes in, dependent products such as operating systems, server software, etc. not specifically identified in the Statement of Work.

#### **2. RSA’s Obligations**

Prior to receiving Custom Application Support, a Customer must have executed and have paid all fees outstanding under the Maintenance Agreement. So long as this Exhibit and the Maintenance Agreement remain in effect, RSA shall provide the following services to Customer under the Custom Application Support program:

- (a) Provide telephone consultation to Customer with respect to the custom software during the hours in which Customer receives support under the Maintenance Agreement. Calls for Custom Application Support should be directed to the applicable technical support centers listed at the following link: <https://community.rsa.com/docs/DOC-1294>.
- (b) Provide initial response within four (4) hours of Customer’s report of all S1 Bugs.
- (c) Isolate and verify S1 Bugs; and correct such S1 Bugs to the extent determined necessary by RSA.

In addition to the services described above, at the election of Customer, RSA may provide additional support on a separate time and materials basis to address and develop Enhancements and fixes for non S1 Bugs.

#### **3. Customer’s Obligations.**

In order to receive the Custom Application Support services described herein, Customer agrees to:

- (a) Continue to subscribe to one of RSA’s support offerings.
- (b) Use reasonable efforts to ensure that reported S-1 Bugs have been isolated from the standard RSA products to confirm that the S-1 Bug is custom software related. Maintenance and support issues related to standard RSA products will be supported under the terms of a separate Maintenance Agreement between RSA and Customer.
- (c) Customer must provide, support and allow RSA access to all hardware and software necessary to provide Custom Application Support.
- (d) Identify a single point of contact familiar with the custom software who will be responsible for calling for support.

#### **4. Limitations**

Not included in the Custom Application Support services described herein are:

- (a) Repair or replacement of custom software required as a result of causes other than normal use, including, without limitation, repair, maintenance, alteration or modification of the custom software by persons other than RSA or RSA authorized personnel; accident, fault or negligence of the Customer; operator error or improper use or misuse of the custom software; or causes external to the custom software, such as but not limited to failure of electrical systems, or fire or water damage.
- (b) Modification or replacement of the custom software due to incompatibilities in or failure of the custom software resulting from patches and/or upgrades of, or other changes in, dependent products such as operating systems, server software, etc. not specified in the Statement of Work.
- (c) Repair, alteration or replacement required due to modifications made to the custom software by persons other than RSA or RSA-authorized personnel, or the use of the custom software with software or equipment other than that for which the custom software was originally developed.
- (d) Maintenance support due to Customer's noncompliance of the provisions of Section 3 herein.

##### **5. Payment and Term**

- (a) Payment of the Custom Application Support Fee shall be due net 30 days from date of RSA invoice.
- (b) The initial term of this Exhibit shall begin upon execution of the Agreement. Subject to Section 5(c), Custom Application Support may subsequently be renewed on an annual basis, unless RSA notifies Customer at least 60 days before the expiration of the initial term or any renewal term of its intent not to renew Custom Application Support.
- (c) Custom Application Support specifically excludes support for any version of the custom software released by RSA which has reached its "end of primary support" (EOPS) date, as determined by RSA. Each custom software deliverable will reach its EOPS date after a period of not less than thirty six (36) months following the date of that deliverable's "General Availability" (or "GA" release date, as this term is generally understood in the software industry). This time period may be extended by RSA at its sole discretion. For certain custom software deliverables, Customers may enter into an Extended Support agreement for a period of one or two years to obtain Custom Application Support for custom software which has already reached its EOPS date.
- (d) If Custom Application Support expires or is terminated, and Customer subsequently seeks to reinstate Custom Application Support, Customer shall pay the cumulative (a) Custom Application Support Fees applicable for the period during which support lapsed; and (b) the then- current reinstatement fee, as quoted by an authorized RSA representative, distributor or reseller.

## EXHIBIT B

### **SUPPLEMENTAL TERMS AND CONDITIONS APPLICABLE TO RSA TRAINING SERVICES**

- (a) All materials provided by RSA University for training services are the property of RSA. Customer shall not duplicate such materials and may use the materials solely in conjunction with the training provided by RSA hereunder. Use of RSA On-Demand Training (e.g. RSA On-Demand Learning, On-Demand Labs and On-Demand Classroom training) is limited to a single user. RSA reserves all rights not expressly granted to Customer in the applicable governing agreement.
- (b) An order for training services is valid for a period of twelve (12) months from the date of purchase (the “Term”) and may not be combined with other discounts, offers or promotions.
- (c) Customer will be invoiced for RSA training at the time of order submission, and expected to pay in accordance with Section 5 of the Agreement.
- (d) Training courses are non-cancelable and non-refundable. Changes to a course order will only be accepted in writing. If for any reason you wish to reschedule a training course your request must be received at least (10) business days prior to the start date for the scheduled training course for which you registered. Full tuition will be charged for rescheduling requests received less than (10) business days prior to the start date for the scheduled training course. The same rules apply to any virtually delivered training courses as well. Please note that once activated, any On-Demand training courses may not be substituted for another course, it will be viewed as delivered and consumed.
- (e) In the event RSA cancels or reschedules a public open enrollment course, you will be notified of such cancellation or rescheduling by RSA. Once notified you may request a refund or you may reschedule your attendance. In no event will RSA be liable for nonrefundable travel arrangements in the event of a course cancellation or rescheduling.
- (f) At the end of the applicable Term, any pre-paid, remaining unused training shall expire and shall be forfeited. No refunds shall be provided based on any remaining, pre-paid unused training. All classes must be registered and attended during the Term; provided, however, if RSA cancels and reschedules a class past the “expiration date” of the Term, you may attend the next scheduled training class.
- (g) For Private Classroom (on-site courses), the customer shall provide a classroom which will allow sufficient space to accommodate the expected number of students (limit of ten (10) students per class), will support connection to the RSA University virtual lab environment (if applicable), table space for a computer for each student, a blackboard or whiteboard for instructor use, and an LCD projector for presentations and demonstrations. If space such as a conference room is being utilized as a classroom, it should be located in an area that affords minimal external distractions and noise. A proximity to services such as rest rooms and coffee/food service is also helpful; students tend to maximize their learning experience in a comfortable environment.
- (h) For courses delivered as a Private Classroom (on-site), one trip to the customer location is included in the price of the services. This trip may be up to five (5) days in duration. Any additional travel will require written approval by Customer and will be invoiced at actual cost.
- (i) Training Credits (TC’s):
  - 1. Training Credits are a training currency which may be used to acquire education products and services as offered by RSA University training.
  - 2. Training Credits may only be redeemed for Education Services provided directly by RSA.
  - 3. Training Credits are intended to be used within their applicable product line. Customer will need to submit a Change Request to support Training Credits use for training associated to other product lines.
  - 4. Training Credits are utilized by students belonging to a specific company site. Usage is tracked by the RSA Learning Management System and customers are accountable for tracking their own Training Credit usage.
  - 5. Training Credits may not be used for Education Subscription purchases.
  - 6. Training Credits are valid for a period of one (1) year from the original date of purchase and are non-refundable.
  - 7. Training Credits are only transferable within an individual company site.