



The Security Division of EMC

SERVICE AGREEMENT FOR HOSTED RISK MONITORING SERVICES

THIS SERVICE AGREEMENT FOR TRANSACTION MONITORING SERVICES ("AGREEMENT") IS EFFECTIVE AS OF THE DATE OF THE APPLICABLE QUOTATION MAKING REFERENCE TO THIS AGREEMENT.

ANY AND ALL REFERENCES TO "CUSTOMER" SHALL BE DEEMED TO MEAN THE CUSTOMER SET FORTH IN AN APPLICABLE 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 RSA WILL PROVIDE AND CUSTOMER WILL RECEIVE THE MANAGED SERVICES (AS DEFINED BELOW) SET FORTH HEREIN.

1. DEFINITIONS.

The defined terms in this Agreement shall have the definitions set forth immediately below or set forth elsewhere herein. All references to "Section" shall refer to sections of this Agreement, unless otherwise specified herein.

"**Confidential Information**" has the meaning set forth in Section 13.

"**Documentation**" means the then-current, generally available, written user manuals and online help and guides provided by RSA for each Managed Service.

the "**eFraudNetworkSM**" means a database owned and operated by RSA which contains information aggregated by RSA, discovered by the parties as part of the performance of their obligations under this Agreement, obtained, and/or procured from third parties and/or resulting from risk and fraud assessments carried out by RSA and includes without limitation IP addresses, Phishing website URLs and any other related data. The eFraud Network will not include any information which would allow the holder thereof to identify an End User, a Card Member or any legal entity or any "Non Public Personal Information" as defined under Gramm-Leach-Bliley Act 1999. RSA shall own any updates made to its eFraudNetwork Data pursuant to the provision of the Managed Service and in accordance with the terms of the Agreement

"**End User**" means a client of Customer, whose transaction may be processed by a Managed Service in accordance with the provisions hereunder.

"**Intellectual Property**" shall include, without limitation, copyrights, trade-secrets, trademarks (including the "Marks" as defined in Section 4), trade-names, domain names, patents, know-how, formulation, data, technology, designs, inventions, improvements, discoveries, processes, models or sales, financial, contractual and marketing information and all other intellectual or industrial property and like rights whether or not registered and the applications thereof.

"**Managed Service(s)**" shall mean any of the RSA Products, offered to Customer as an RSA hosted managed service the selected components of RSA's Adaptive Authentication service for Web as set out in Exhibit B of this Agreement. "Managed Service(s)" shall include, without limitation: the RSA Products and any and all Intellectual Property pertaining thereto, the infrastructure,

computer programs, software products (including any third party software products), databases, files and data either used to operate a Managed Service or incorporated therein, Training Materials, the system and processes, the Documentation and all corrections, new releases of the software underlying the Managed Service, modifications and enhancements to a Managed Services released by RSA during the term of this Agreement and provided to Customer under the terms of this Agreement.

"RSA Products" means those RSA identity protection and verification products from time to time which are generally available to all of RSA's customers as Managed Services and may be provided by RSA under this Agreement.

"Training" means RSA's generally available training course offerings, whether online, via CD, instructor-led, or any other method of delivery.

"Training Materials" means the materials provided to Customer during Training.

2. PERSONNEL

- A. Personnel. The parties will designate personnel to manage, coordinate and execute its obligations under this Agreement.
- B. Service Providers. Customer shall remain at all time for the actions and omissions of all subcontractors (other than RSA) that it may use in connection with the Managed Services or this Agreement and Customer agrees that all subcontractor(s) which have access to the Managed Services and/or the Confidential Information of RSA shall be subject to confidentiality obligations at least as restrictive as those set forth in this Agreement.

3. THE LICENSE; OWNERSHIP

- A. License to the Managed Services. Subject to the terms and conditions of this Agreement RSA will grant to Customer, for the term of the Agreement, a non-exclusive, non-transferable, non-sublicensable right and license to access and use the Managed Services in accordance with their respective Documentation, solely for the purpose of (i) processing End User transactions in compliance with the instructions contained in the Documentation and this Agreement; (ii) (iii) sublicensing the right to access and use the Managed Service to Customer's Card Members and End Users for the purposes contemplated herein. No other access or use of the Managed Services shall be made by Customer except as expressly granted hereunder, without the prior written consent of RSA.
- B. Ownership. Documentation and Training Materials are licensed only. No title to, or ownership of, Documentation, Training Materials, or other materials provided to Customer in the course of performing the Managed Services is transferred by RSA to Customer. The parties expressly understand and agree that: (i) the Managed Services, the RSA Product(s), RSA's Confidential Information, and all Intellectual Property with respect to the foregoing are and shall remain the sole and exclusive property of RSA.
- C. the eFraudNetwork database. RSA shall retain and own all right, title and interest and all intellectual property rights (including but not limited to copyrights, trade secrets, trademarks and patent rights) to all information which is collected, submitted to and made available on the eFraudNetwork database in the course of the performance by either party of their obligations under this Agreement (or where such title cannot be granted or otherwise transferred to RSA then Customer agrees to grant RSA an unconditional, unlimited, unrestricted, royalty free license to use, distribute and/or otherwise make available such information).
- D. Restriction on Internal Enterprise Authentication Use. Customer will not directly or indirectly use a Managed Service for its internal enterprise authentication purposes. For the purpose of this Agreement, "internal enterprise authentication" means authenticating a login request (which request may originate either remotely or from Customer or an Affiliate's premises) of an employee, consultant, or an agent of Customer (or an Affiliate) for the purpose of granting the requestor access to Customer (or an Affiliate's) computer networks for the purpose of performing their assigned work.
- E. Reservation of Rights. All rights not expressly granted herein with respect to the Managed Services or the RSA's Products are reserved to RSA. Nothing contained herein shall limit RSA's right to license or otherwise distribute or make available to any third party, develop, use, create

derivative works of, or otherwise exploit the RSA Products or the Managed Services (and the RSA Products underlying those services), in whole or in part.

4. TRADEMARKS

- A. License of Marks. During the term of this Agreement, each party (the "Licensor") hereby grants to the other party (the "Licensee"), subject to the terms and conditions of this Agreement, a limited, royalty-free, non-exclusive, non-transferable, non sublicenseable, worldwide right and license to use and display, solely to the extent necessary for Licensee to perform its obligations hereunder, Licensor's trade names, trademarks, service marks and associated logos and other promotional materials as set forth in a Schedule (the "Marks"). Licensee will attribute the Marks of Licensor used pursuant to this Section with a statement to the effect that such Marks are owned by Licensor. Without limiting the above, Customer may brand the Managed Services at its discretion and affix its trademark on the web pages, provided, however, that at all times the labeling shall indicate that the Managed Services and the RSA Products are developed and owned by RSA and subject always to the provisions of Section 4(B) below.
- B. Customer hereby agrees to place the following words in the form of the trademark logo attached hereto under Exhibit A "Secured by RSA" on the End User facing web based user interface which is deployed by the Customer for the purpose of allowing End Users access to the Managed Service(s).
- C. Reservation of Rights in Marks. Licensor will retain all right, title and interest in and to Licensor's Marks, and all goodwill associated with use of such Marks will inure solely to the benefit of Licensor. All use of the Licensor's Marks by Licensee shall conform to good trademark usage practice or any reasonable trademark usage guidelines or instructions that Licensor may provide Licensee from time to time. No licenses are hereby granted by the Licensor to the Licensee with respect to the Licensor's Marks except for those expressly set forth in this Agreement

5. REPRESENTATIONS AND WARRANTIES

- A. Managed Services Warranty. RSA warrants that a Managed Service shall operate substantially in accordance with the applicable Documentation. Any failure to so operate shall be corrected by RSA. This Warranty shall not apply in the event where: (a) such failure results from a correction, alteration or modification of the Managed Services not provided or expressly approved by RSA; or (b) the use of the Managed Services in a manner not in accordance with this Agreement, or with the Documentation; (c) the Managed Service is used with software or equipment other than that for which it was were designed as set forth in the Documentation; or (d) problems relating to or residing in (1) third party items or services with which the Managed Service is used; or (2) implementation not in accordance with RSA's instructions or the applicable Documentation. The correction of the non-conformity by RSA or the refund shall be Customer's sole and exclusive remedies for failure to meet this warranty.
- B. NO WARRANTY TO END USERS, CUSTOMERS AND THIRD PARTIES. NOTHING IN THIS AGREEMENT IS INTENDED TO CONSTITUTE OR CREATE ANY REPRESENTATION OR WARRANTY BY RSA TO END USERS CUSTOMERS, OR ANY OTHER THIRD PARTY, DIRECTLY OR AS A THIRD PARTY BENEFICIARY, WITH RESPECT TO ANY OF THE RSA'S MANAGED SERVICES OR OTHERWISE.
- C. Customer represents and warrants that it has the authority and that it has obtained all necessary approvals in order to deliver private and personal data to RSA or its agents (including any "Non Public Personal Information" as defined under Gramm-Leach-Bliley Act 1999).
- D. RSA shall not be liable for any claim by Customer's customers', cardholders', including Card Members', or other third parties arising from the unauthorized or fraudulent application for, access to or use of such cardholder's personal data.
- E. Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5, RSA MAKES NO AND HEREBY SPECIFICALLY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE MANAGED SERVICES, THE RSA PRODUCTS AND OTHER SERVICES CONTEMPLATED BY THIS AGREEMENT OR OTHERWISE ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, AND RSA SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NONINFRINGEMENT, AND IMPLIED

WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. RSA does not warrant that the functions contained in the Managed Services will meet the requirements of Customer or that the operation of the Managed Services will be uninterrupted or error free or free from other program limitations.

6. LIMITATION OF LIABILITY.

- A. Limitation on Direct Damages. RSA'S AND ITS SUPPLIER'S TOTAL LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY TYPE WHATSOEVER, ARISING OUT OF A MANAGED SERVICE PROVIDED HEREUNDER, SHALL BE LIMITED TO PROVEN DIRECT DAMAGES CAUSED BY RSA'S SOLE NEGLIGENCE IN AN AMOUNT NOT TO EXCEED (i) US\$50,000, FOR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY; AND (ii) THE PRICE PAID BY CUSTOMER TO RSA IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING SUCH CLAIM FOR THE SPECIFIC MANAGED SERVICE FROM WHICH SUCH CLAIM ARISES, FOR DAMAGE OF ANY TYPE NOT IDENTIFIED IN (i) ABOVE OR OTHERWISE EXCLUDED HEREUNDER
- B. No Indirect Damages. EXCEPT WITH RESPECT TO CLAIMS REGARDING VIOLATION OF RSA'S INTELLECTUAL PROPERTY RIGHTS, NEITHER CUSTOMER NOR RSA (INCLUDING RSA'S SUPPLIERS) SHALL (a) HAVE LIABILITY TO THE OTHER 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; AND (b) BRING ANY CLAIM BASED ON A MANAGED SERVICE PROVIDED HEREUNDER MORE THAN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES.

7. CONFIDENTIAL INFORMATION

- A. "Confidential Information" means and includes the terms of this Agreement , Exhibits and any associated Statements of Work), the Managed Services, RSA Products (including any underlying software and technology), and Documentation and all confidential and proprietary information of RSA or Customer, including without limitation all business plans, product plans, financial information, software, designs, and technical, business and financial data of any nature whatsoever (including, without limitation, and marketing, pricing and other information regarding the Managed Services), provided that such information is marked as "confidential," "proprietary," or any other similar term or designation. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without obligation of confidentiality prior to receipt from the disclosing party, (ii) a matter of public knowledge through no fault of the receiving party, (iii) rightfully furnished to the receiving party by a third party without restriction on disclosure or use; or (iv) independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.
- B. Obligations. Each party shall (i) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Agreement, (ii) only disclose Confidential Information to the other party as necessary to allow the other party to perform its obligations hereunder; and (iii) use at least reasonable care to protect from disclosure to any third parties any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure of three (3) years following the date of disclosure, except with respect to the RSA Products, Managed Services, Training Materials and Documentation, which shall remain Confidential Information until one of the exceptions stated above applies. Customer may not disclose the results of any performance tests of the Managed Services to any third party without RSA's prior written approval. Notwithstanding the foregoing, (i) RSA may disclose Customer Confidential Information to an Affiliate or contractor (who is under an obligation of confidentiality) for the purpose of fulfilling RSA's obligations or exercising RSA's rights hereunder so long as RSA and its Affiliates comply with the confidentiality obligations above, and (ii) a receiving party may disclose Confidential Information pursuant to a valid court order or authorized government agency provided that the receiving party has given the disclosing party prompt notice so that the disclosing party will have an opportunity to defend, limit or protect against such disclosure.

- C. Privacy Legislation. Except as required for the proper performance of the parties obligations under this Agreement, the parties do not intend to disclose to one another hereunder information that would be covered by the Gramm-Leach-Bliley Act, the Health Insurance Portability and Accountability Act of 1996 or similar privacy legislation within or outside of the United States. Accordingly, neither party shall disclose to the other hereunder any of the following information regarding either party's employees, Customers, suppliers or other business partners: protected health information (as defined at 45 CFR 164.501), social security numbers, driver's license numbers, credit card numbers (except as required for the operation of a Managed Service) or similar government identity numbers or personal financial account numbers.
- D. Each party acknowledges that any breach of the provisions of this Section 13 would result in serious and irreparable injury to the non-breaching party for which the non-breaching party cannot be adequately compensated. Each party agrees, therefore, that, in addition to any other remedy that the non-breaching party may have, the non-breaching party is entitled to enforce the specific performance of this Section 13 and to seek both temporary and permanent injunctive relief without the necessity of proving actual damages.

8. TERM AND TERMINATION

- A. Term of this Agreement. This Agreement shall be effective as of the date first written above and shall remain in force for the period of time set forth on the applicable quotation issued by RSA, unless terminated as set forth herein (the "Term").
- B. Termination.
 - (i) RSA may terminate this Agreement if Customer fails to make payment when due of any amount which is not subject to a bona fide payment dispute (as substantiated in correspondence between the parties) and Customer fails to cure such default within ten (10) business days of receiving notice in writing of such default.
 - (ii) Either party may terminate this Agreement by way of written notice with immediate effect in the event of a material breach of this Agreement by the other party which is not remedied to the reasonable satisfaction of the claiming party within thirty (30) days of such party providing written notice of the breach to the defaulting party which written notice will provide the defaulting party with sufficient detail to remedy the breach.
 - (iii) Either party may terminate this Agreement effective immediately upon written notice by either party if the other party (a) becomes insolvent; (b) files a petition, or has a petition filed against it, under any laws relating to insolvency, and the related insolvency proceedings are not dismissed within 60 days after the filing of such petition; (c) enters into any voluntary arrangement for the benefit of its creditors; (d) appoints, or has appointed on its behalf, a receiver, liquidator or trustee of any of such party's property or assets; or (e) ceases to carry on business in the ordinary course. .
- C. Effect of Termination. Immediately upon any termination of this Agreement: (i) all rights and licenses granted hereunder, and all obligations and covenants imposed hereunder, shall immediately cease, except as otherwise expressly provided herein;; and (ii) each party shall: (a) stop using all Confidential Information, Marks and/or any other proprietary materials of the other party then under its possession or control (including, without limitation, the Managed Service); (b) erase or destroy all such Confidential Information, Marks and/or any other proprietary materials residing in any computer memory or data storage apparatus; and (c) at the option of such other party, either destroy or return to such other party all such Confidential Information, Marks and/or any other proprietary materials in tangible form and all copies thereof. Any such destruction referenced in (b) or (c) above shall be certified in writing to the disclosing party by an authorized officer of the receiving party supervising such destruction. The termination of this Agreement shall not (a) discharge any payment obligations accrued as of the effective date of such termination, even if such obligations are payable after the termination date, or (b) entitle Customer to a refund of any amounts previously paid to RSA.
- D. Survival. In addition to any other provision in which the parties agree that such provision shall survive termination of the Agreement, the following provisions shall survive termination of this Agreement: 3, 4, 6, 7, 8(C) and 9.

9. GENERAL TERMS

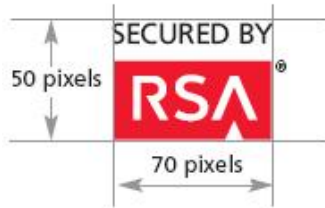
- A. **GOVERNMENT REGULATIONS.** The Managed Services and the technology included therein made available under this Agreement are subject to governmental restrictions on exports from the U.S.; restrictions on exports from other countries in which such Managed Services and technology included therein may be produced or located; disclosures of technology to foreign persons; exports from abroad of derivative products thereof; and the importation and/or use of such Managed Services and 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, Libya, 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, products or technology may be subject to the International Traffic in Arms Regulations ("ITAR"). This information, products or technology shall only be exported, transferred or released to foreign nationals inside or outside the United States in compliance with ITAR.
- B. **NOTICES.** Any notices permitted or required under this Agreement 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.
- C. **REFERENCE.** RSA may identify Customer for reference purposes.
- D. **COMPLETE AGREEMENT.** This Agreement (i) is 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 both parties. This Agreement shall govern the delivery and performance of the Managed Services. Except as expressly agreed in writing by the parties, all other terms of any purchase order or similar document provided by Customer whether prior or following the Effective Date, including but not limited to any pre-printed terms thereon and any terms that are inconsistent, add to or conflict with this Agreement shall be null and void and of no legal force or effect.
- E. **FORCE MAJEURE.** Neither party shall be liable under this Agreement 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.
- F. **ASSIGNMENT.** Neither party shall assign this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld, except that RSA may assign this Agreement without consent of the other party to any of its affiliates or subsidiaries or to a successor in the event of a merger, acquisition or sale of all or substantially all of its assets (including its stock).
- G. **GOVERNING LAW.** This Agreement is governed by the laws of the Commonwealth of Massachusetts, excluding its conflict of law rules and excluding the U.N. Convention on Contracts for the International Sale of Goods. This Agreement has been drawn up in and shall be construed in accordance with the English language.
- H. **WAIVER.** No waiver shall be deemed a waiver of any prior or subsequent default hereunder.
- I. **SEVERABILITY.** If any part of this Agreement is held unenforceable, the validity of the remaining provisions shall not be affected.

EXHIBIT A RSA MARKS

SECURED BY RSA – logo designator for RSA Adaptive Authentication customers

The “SECURED BY RSA” logo has been designed as an indicator that Customer is using the RSA Adaptive Authentication solution. It is designed for web and print use and is not intended to be a substitute for the corporate logo or for use in locations other than the web pages or promotional material of companies who have licensed or otherwise procured the Adaptive Authentication service. Nor is the “SECURED BY RSA” mark to be used as a substitute for the corporate logo in places where the RSA corporate logo is appropriate. This logo is not posted. Logo files may be obtained by contacting the RSA Identity Protection and Verification group at RSA corporate headquarters. It is to be used at the size indicated below. The logo consists of the RSA brick and the words “SECURED BY”. These two components should not to be separated or changed; “SECURED BY” should always appear in the same proportions and relationship to the RSA notched rectangle.

Correct size and layout



Incorrect: altered layout



Incorrect: altered proportions



Incorrect: combination with corporate logo

The words “The Security Division of EMC” are not part of the SECURED BY RSA logo. The corporate logo, which includes the word “The Security Division of EMC”, is a separate mark; the two logos may not be combined.



In Customer applications, the logo is to be seen only as an third-party mark that indicates the security features of Customer’s web site. Therefore the following restrictions apply to use:

A. The logo may not be enclosed by Customer’s logo or other artwork so as to appear to be part of Customer’s logo.

Correct Usage



Incorrect Usage



B. The logo may be placed adjacent to Customer’s logo or other artwork as long as there is sufficient empty (white) space between the two logos. Sufficient space online is defined as 20 pixels in any direction from the outer edges of the “SECURED BY RSA” logo. Sufficient space in print is defined as .5 inches in any direction from the outer edges of the logo.

EXHIBIT B

MANAGED SERVICE DESCRIPTION

- 1. Authorized Use.** For so long as this Schedule remains in force and subject to the terms and conditions of this Schedule and the Agreement, RSA hereby grants Customer a non-exclusive, non-transferable right to access and use the Managed Service for generating or monitoring the electronic transaction requests of end users, in accordance with the instructions contained in the Documentation.
- 2. Managed Service Implementation.** The parties will jointly develop an implementation plan for the Managed Service which will be set out in a separate statement of work (the “**Implementation SOW**”). The Implementation SOW will detail the final delivery project scope and the specification will detail the final Customer specific configuration of the Managed Service. The parties will cooperate as reasonably necessary and in a timely manner to complete the installation process described in the Implementation SOW.
- 3. Functionality.** The Managed Service software shall provide Customer with the following functionality:

Managed Service - Risk Monitoring
Assessment, analysis and scoring of post-login transactions activities by a Bayesian, self-learning risk engine that leverages both device and behavioral profiling. A case management application allows investigating high risk transactions, marking the fraudulent ones, and feeding feedback into the risk engine. The list of transaction activities that can be protected includes: login, transferring funds, making online payments, establishing or editing payees, etc.