



## RSA Adaptive Federation SERVICE AGREEMENT

### IMPORTANT-READ CAREFULLY:

BY ACCESSING OR USING THE SERVICE, YOU (THE INDIVIDUAL OR LEGAL ENTITY ACCESSING THE HOSTED SERVICE) AGREE TO BE BOUND BY THESE TERMS OF SERVICE ("**AGREEMENT**"). IF YOU DO NOT AGREE TO THIS AGREEMENT, YOU MUST NOT USE OR ACCESS THE SERVICE, AND YOU MUST NOTIFY RSA OR THE VENDOR FROM WHICH YOU ACQUIRED ACCESS TO THE SERVICE WITHIN THIRTY (30) DAYS AND REQUEST A REFUND OF THE SUBSCRIPTION FEE, IF ANY, THAT YOU PAID FOR THE SERVICE. "**YOU**" OR "**CUSTOMER**" MEANS THE NATURAL PERSON OR THE ENTITY THAT IS AGREEING TO BE BOUND BY THIS AGREEMENT, THEIR EMPLOYEES AND THIRD PARTY CONTRACTORS THAT PROVIDE SERVICE TO YOU. YOU SHALL BE LIABLE FOR ANY FAILURE BY SUCH EMPLOYEES AND THIRD PARTY CONTRACTORS TO COMPLY WITH THE TERMS OF THIS AGREEMENT.

*If you do not have authority to agree to the terms of this Agreement, do not accept the terms of this Agreement; click on the "Cancel" or "Decline" or other similar button at the end of this Agreement and/or immediately cease any further attempt to install, download or use Hosted Service for any purpose.*

**EVALUATION ACCESS.** If You are accessing or using the Hosted Service for evaluation purposes, Your use of the Hosted Service is only permitted for evaluation purposes and for the period limited by the Login Credentials. Notwithstanding any other provision in this Agreement, an evaluation of the Hosted Service is provided "AS-IS" without indemnification, support or warranty of any kind, expressed or implied.

### 1. DEFINITIONS.

**1.1 "Affiliate"** means, with respect to a party, an entity that is directly or indirectly controlled by or is under common control with such party, where "control" means an ownership, voting or similar interest representing fifty percent (50%) or more of the total interests then outstanding of the relevant entity (but only as long as such person or entity meets these requirements).

**1.2 "Customer Data"** means any and all files, information, data or other content that You upload to the Hosted Service in connection with Your use of the Hosted Service. It does not include information that RSA collects for relationship management purposes, such as contact, billing, customer relationship management, service delivery, performance measuring, and compliance monitoring.

**1.3 "Documentation"** means that documentation that is generally provided to You by RSA for the Hosted Service, as revised by RSA from time to time, and which may include service descriptions and access instructions regarding the Hosted Service.

**1.4 "Hosted Service"** means the RSA Adaptive Federation hosted service offering to which You acquire rights to access and use under a Quote.

**1.5 "Hosted Service Subscription"** means Your right to access and use the Hosted Service as specified in the Documentation for such Hosted Service Subscription during the applicable Hosted Service Subscription Term.

**1.6 "Hosted Service Subscription Fee"** means the fee, if any, for each Hosted Service Subscription as specified in the Quote.

**1.7 "Hosted Service Subscription Term"** means the time period of Your access to the Hosted Service as specified in the Quote.

**1.8 "Intellectual Property Rights"** means all worldwide intellectual property rights, including without limitation, copyrights, trademarks, service marks, trade secrets, know how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.

**1.9 "Login Credentials"** mean any passwords, authentication keys or security credentials that are provided by RSA to You to enable Your access to the Hosted Service.

**1.10 "Named User"** means the right to use the Hosted Service for a designated user who can access or use the Hosted Service.

**1.11 "Quote"** means a quotation issued by You to RSA or a RSA authorized reseller that references and incorporates this Agreement and is accepted by RSA as set forth in Section 4 or (b) an online purchase of the Hosted Service placed via an online store authorized by RSA.

**1.12 "Taxes"** means any sales, use, gross receipts, business and occupation, and other taxes (other than taxes on RSA's income), export and import fees, customs duties and similar charges applicable to the transactions contemplated by this Agreement that are imposed by any government or other authority.

**1.13 "Third Party Agent"** means a third party delivering information technology services to You pursuant to a written contract with You.

**1.14 "RSA"** means RSA Security LLC., if You are located in and are purchasing the Hosted Service Subscriptions for use in the United States, Mexico or South America. If You are located in a country outside of the United States, Mexico or South America, RSA means the local EMC Corporation sales subsidiary; or EMC Information Systems International, if You are located outside of the United States, Mexico or South America and in a country in which EMC Corporation does not have a local sales subsidiary.

## **2. ACCESS TO THE SERVICE.**

**2.1 Provision of Hosted Service; Grant & User Rights.** RSA will provide the Hosted Service to You for the type of Hosted Service Subscription specified in the Quote during each applicable Hosted Service Subscription Term in accordance with the terms of this Agreement. RSA may change, discontinue, or terminate the Hosted Service or change or remove features or functionality of the Hosted Service in its sole discretion at any time. RSA will notify You of any material change to or termination of the Hosted Service and provide You with a refund of the Hosted Service Subscription Fee pro-rated for the remainder of the Hosted Service Subscription Term. Subject to the terms and conditions of the Agreement and payment of all fees specified in the applicable Quote(s), RSA grants to You, during the Hosted Service Subscription Term, a right to use the Hosted Service by the total number and type of Named Users set forth in the applicable Quote. RSA hereby grants you a non-exclusive, non-transferable license, without rights to sublicense, to use the Hosted Service for your internal operations only for the time period (the "**Subscription Term**") that you have paid the applicable fees. The Hosted Service is intended for your organization's use only, and provided to You "as is". The Service is licensed to the user within the organization who created the user ID and password for that account; and the account may not be accessed and the Hosted Service may not be used by other individual using the same user ID and password of such account. All rights not expressly granted to You are reserved by RSA.

**2.2 Your Account, Password and Access to Hosted Service.** You may access and use the Hosted Service solely for Your own benefit and in accordance with the terms and conditions of this Agreement, the Documentation and any usage restrictions designated in the Quote. To the extent that You are given Login Credentials, You shall require that all authorized users keep Login Credentials strictly confidential and not share such information with any unauthorized person. You are responsible for authorizing and controlling access to the Hosted Service, maintaining the confidentiality of Login Credentials, and for any use that occurs under such Login Credentials. You warrant that you or your employees understand and agree that the right to access the Hosted Service is granted because you have sponsored their participation, and if at any time You no longer have such right or You no longer extend that sponsorship to them, you must cease their access and use of the website. You are responsible for authorizing and controlling access to the Hosted Service, maintaining the confidentiality of user IDs and passwords and are responsible for any use that occurs under such user IDs and passwords. RSA is not liable for any losses, damages, claims, demands, actions, costs and expenses (including reasonable attorneys' fees and court costs) arising from or created by any of your acts or omissions related to the access or use of the Hosted Service. You acknowledge and agree that the content on the Hosted Service, including but not limited to text, software, graphics or other information presented to You is subject to and protected by copyright, trademarks, service marks, patents, or other proprietary rights and relevant law.

**2.3 Third Party Content.** In connection with Your use of the Hosted Service, You may be provided with access to third party data, content, software or applications ("Third Party Content") under separate terms and conditions, including separate fees and charges. Any Third Party Content will be provided "as is" without any representations, warranties or indemnity.

**2.4 Third Party Use.** Under the access granted to You in Section 2.2 above, You may permit Your Third Party Agents to access, use and/or operate the Hosted Service on Your behalf for the sole purpose of delivering services to You, provided that You will be fully responsible for Your Third Party Agents' compliance with terms and conditions of this Agreement and any breach of this Agreement by a Third Party Agent shall be deemed to be a breach by You.

**2.5 Data Collection.** You acknowledge and agree that RSA may collect certain data and information as a result of your access or use of the Hosted Service. For terminated or defaulted accounts, any data related to the Hosted Service that is collected by RSA will only be retained for a period of one calendar year from the date that the account was terminated or defaulted. RSA may share personal information with its service providers and suppliers to the extent needed to deliver or provide information on products or services or otherwise support your business needs relating to the Hosted

Service.

**2.6 Access to Third Party Applications.** The Hosted Service provides access to third party applications. RSA does not endorse or make any representations about third party applications, nor does the inclusion of any access imply any such endorsement. If you access RSA is not responsible for webcasting or any other form of transmission received from any third-party sites. RSA does not control those sites and RSA is not responsible for the contents of any third-party sites, any links contained in third-party sites, any changes or updates to third-party sites, or their privacy practices, which may differ from those of RSA. The personal data you may choose to give to such third party web sites is not covered by RSA's privacy policy. RSA encourages you to review the privacy policy of any company before submitting your personal information. Some third party companies may choose to share their personal data with RSA, in which case such data sharing shall be governed by that third party's privacy policy.

### **3. RESTRICTIONS; OWNERSHIP.**

**3.1 General Restrictions.** You acknowledge that the Hosted Service and the structure, organization and source code of the Hosted Service constitute valuable trade secrets of RSA. Accordingly, except as otherwise authorized by RSA in writing, You will not permit nor permit any third party to: (a) duplicate, copy, sell, lease, trade, resell or provide or exploit for any commercial purposes, any portion or use of, or access to, the Hosted Service to any third party, except as permitted in Section 2.4 above; (b) reverse engineer, or otherwise attempt to derive source code from the Hosted Service, in whole or in part; (c) create, develop, license, install, use, or deploy any software or services to circumvent, enable, modify or provide access, permissions or rights which violate the grant and use rights of the Hosted Service or technical restrictions of the Hosted Service as described in this Agreement; (d) copy or modify the Hosted Service; (e) interfere with or disrupt the integrity or performance of the Hosted Service or third-party data contained therein; or (f) operate the Hosted Service on behalf of or for the benefit of any third party, including the operation of any service that is accessed by a third party, except that, for the purposes of this Section 3.1 (f), Your Affiliates may use the Hosted Service provided that such use is for such Affiliate's or Your benefit, such use doesn't exceed any usage restrictions in the Quote, and You agree to be responsible for such Affiliate's use of the Hosted Service. You may not access or use the Hosted Service to provide assessments or prepare proposals for third parties.

#### **3.2 Customer Data.**

**3.2.1 Customer Data Requirements.** As between You and RSA, You and Your authorized users shall retain all right, title and interest in and to the Customer Data and all Intellectual Property Rights therein. Nothing in the Agreement will confer on RSA any right of ownership or interest in the Customer Data or the Intellectual Property rights therein; provided, however, that you consent to RSA's use of Customer Data to provide, improve and manage the Hosted Service in accordance with this Agreement and applicable law. You are solely responsible for the Customer Data that Your authorized users upload, publish, display, link to or otherwise make available (hereinafter, "post") on the Hosted Service, and You agree that RSA is only acting as a passive conduit for the online distribution and publication of the Customer Data. RSA will not review, share, distribute, or reference any such Customer Data except as provided herein or as required by law. You agree to take steps to ensure that Your authorized users do not post Customer Data that: (i) may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness to an authorized user, or any other person or entity; (ii) may create a risk of any other loss or damage to any person or property; (iii) may constitute or contribute to a crime or tort; (iv) contains any information or content that is unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, or otherwise objectionable; (v) contains any information or content that is illegal; or (vi) contains any information or content that You do not have a right to make available under any law or under contractual or fiduciary relationships. You represent and warrant that the Customer Data does not and will not violate third-party rights of any kind, including without limitation any Intellectual Property Rights, rights of publicity and privacy. You shall ensure that your use of the Hosted Service and all Customer Data is at all times compliant with your privacy policies and all applicable local, state, federal and international laws and regulations. RSA is not responsible for any public display or misuse of Customer Data, except in the case of gross negligence or intentional misconduct by RSA or its employees.

**3.2.2 Protection of Customer Data.** RSA shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. RSA will not (a) modify Customer Data, (b) disclose Customer Data except as compelled by law in accordance with Section 10.3 or as expressly permitted in writing by You, or (c) access Customer Data except to provide the Hosted Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

**3.2.3 Customer Content Storage.** The Service is not an archiving service. Except as expressly set forth in this Agreement, RSA reserves the right to remove Customer Data from the Service at any time and RSA expressly disclaims any obligations with respect to the storage or transfer of Customer Data.

**3.2.4 Indemnification by Customer.** You shall defend and indemnify and hold RSA and its affiliates and suppliers harmless from and against any and all claims, liability and expenses, including reasonable attorneys' fees and costs arising from or relating to: (a) Customer Data; (b) any infringement or misappropriation of any Intellectual Property Rights by You, Your customers or Your suppliers; (c) violation of law by You; or (d) Your use of the Hosted Service in violation of this Agreement, provided that RSA:(i) provides You with notice of such claim within a reasonable period of time

after learning of the claim; and (ii) reasonably cooperates in response to Your requests for assistance. You may not settle or compromise any indemnified claim without the prior written consent of RSA. RSA reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any such claims. You agree to reasonably cooperate as requested by RSA in the defense of any such Claims.

**3.3 Ownership.** The Hosted Service and Documentation, all copies and portions thereof, and all improvements, enhancements, modifications and derivative works thereof, and all Intellectual Property Rights therein, are and shall remain the sole and exclusive property of RSA and its licensors. Your rights to use the Hosted Service and Documentation shall be limited to those expressly granted in this Agreement and any applicable Quote. No other rights with respect to the Hosted Service or any related Intellectual Property Rights are implied. The Customer Data, all copies and portions thereof, and all Intellectual Property Rights therein, are and shall remain Your and Your licensors' sole and exclusive property.

#### **4. QUOTE.**

**4.1 Quotes.** All Quotes for Hosted Services are subject to this Agreement. No Quotes are binding on RSA until accepted by RSA.

**4.2 Purchases through Resellers.** The terms of this Agreement related to delivery, pricing, payment or taxes shall not apply to any of Your purchases of the Hosted Service (including any renewal of the Hosted Service) through RSA authorized resellers, and You shall establish such terms independently with the authorized reseller.

**4.3 Delivery of Login Credentials.** After acceptance of the Quote for the Hosted Service, RSA shall deliver the corresponding Hosted Service to You by emailing the corresponding Login Credentials to You. The Hosted Service shall be deemed delivered and accepted upon RSA emailing the corresponding Login Credentials to You.

**4.4 Fees.** The Hosted Service is sold on an annual subscription basis and includes SaaS Production Support and Subscription (SnS) during the contracted term. SaaS Production SnS is not sold separately. During the subscription period, if you need to add additional users for the Hosted Service, You may do so within the RSA Adaptive Federation administrative management console and You will be billed in increments of 10 within the following billing cycle. You are responsible for keeping track of your subscription. The subscription fees are quoted and payable in the currencies that RSA currently accepts. Fees shall be due and payable at the beginning of the Subscription Term. Payment obligations are non-cancelable and fees paid are non-refundable. Fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and such taxes, levies and duties shall be added to the Service fees. The subscription fees of the then current price list are based on the annual period that begins on the subscription start date and each yearly anniversary thereof. You are responsible for maintaining complete and accurate billing and contact information for the Service. RSA reserves the right to modify the fees at any time, upon 30 days prior written notice to you, which may be provided by e-mail or at the EMC.com/RSA website; such new prices shall not apply for subscription for Service which has already been paid, but shall apply to any subscription completed after the effective date of change of the fees.

**4.5 Invoicing and Payment Terms.** RSA will, upon making the Hosted Service available to You, invoice You for the fees set out in the applicable Quote. You shall pay all fees, in the currency specified in the invoice, within thirty (30) days after the date of the invoice. If Your usage of the Hosted Service exceeds the amount for which You have paid, You will promptly pay to RSA any additional fees for all such additional usage by You. Except as expressly set forth in this Agreement, fees are non-refundable and amounts not paid when due shall incur a late fee equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount allowed by applicable law. RSA may suspend the delivery of the Hosted Service while any payment is delinquent. Notwithstanding the foregoing, if You purchase the Hosted Service via an online store authorized by RSA, Your payment terms will be as specified at the time of purchase.

**4.6 Taxes.** Hosted Service Subscription Fees are exclusive of Taxes and You shall pay or reimburse RSA for all Taxes arising out of this Agreement or the transactions contemplated by this Agreement. If You are required to pay or withhold any Tax in respect of any payments due to RSA hereunder, You shall gross up payments actually made such that RSA shall receive sums due hereunder in full and free of any deduction for any such Tax. You hereby confirm that RSA can rely on the "ship to" name and address set forth in Quote You place directly with RSA as being the place of supply for sales tax and income tax purposes. Where RSA is making a supply of services under Article 44 of VAT Directive 2006/112/EC, You confirm that RSA can rely on the "bill to" name and address as per the Quote issued by You to RSA as being the place of supply for VAT purposes where You have established its business.

**5. SUPPORT AND SUBSCRIPTION SERVICES.** Subject to the terms of this Agreement, RSA shall provide support for the Hosted Service to You during the Hosted Service Subscription Term in accordance with the terms specified at <http://www.emc.com/support/rsa/index.htm>

**6. DISCLAIMER.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RSA AND ITS LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT



AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE) REGARDING OR RELATING TO THE HOSTED SERVICE, THE DOCUMENTATION, OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO YOU UNDER THIS AGREEMENT. RSA AND ITS LICENSORS DO NOT WARRANT THAT THE HOSTED SERVICE (i) WILL OPERATE UNINTERRUPTED OR ERROR FREE; (ii) WILL BE FREE FROM DEFECTS; (iii) WILL BE COMPLETELY SECURE; (iv) THAT ANY DEFECTS SHALL BE CORRECTED; OR (v) WILL MEET (OR IS DESIGNED TO MEET) YOUR BUSINESS REQUIREMENTS. RSA MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE QUALITY OR ACCURACY OF THE DATA COLLECTED. THE HOSTED SERVICE, ANY DOCUMENTATION, AND ANY UPDATES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. THE FOREGOING LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REGARDLESS OF WHETHER RSA OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **7. INTELLECTUAL PROPERTY INDEMNIFICATION.**

**7.1 Defense and Indemnification.** Subject to the remainder of this Section 7, RSA shall defend You against any third party claim that the Hosted Service infringes any patent, trademark or copyright of such third party, or misappropriates a trade secret (but only to the extent that such misappropriation is not a result of Your actions) under the laws of: (a) the United States and Canada; (b) the European Economic Area; (c) Australia; (d) New Zealand; (e) Japan; or (f) China, to the extent that such countries are part of Your places of use of the Hosted Service ("Infringement Claim") and indemnify You from the resulting costs and damages finally awarded against You to such third party by a court of competent jurisdiction or agreed to in settlement; provided that You: (i) provide RSA with notice of such Infringement Claim within a reasonable period of time after learning of the claim; (ii) allow RSA sole control over the defense thereof and related settlement negotiation; and (iii) reasonably cooperate in response to RSA requests for assistance. You may not settle or compromise any Infringement Claim without the prior written consent of RSA.

**7.2 Remedies.** Should the Hosted Service become, or in RSA's opinion be likely to become, the subject of an Infringement Claim, RSA will, at RSA's option and expense either: (a) procure the rights necessary for You to make continued use of the affected Hosted Service in accordance with this Agreement; (b) modify the affected Hosted Service to make it non-infringing; or (c) terminate Your Hosted Service Subscription to the affected Hosted Service and refund the Hosted Service Subscription Fees paid by You for the affected Hosted Service, pro-rated for the remainder of the Hosted Service Subscription Term.

**7.3 Exclusions.** Notwithstanding the foregoing, RSA will have no obligation under this Section 7 or otherwise with respect to any claim based on: (a) a combination of the Hosted Service with non-RSA products and/or services; (b) use of the Hosted Service for a purpose or in a manner for which the Hosted Service was not designed or specified in the Documentation; (c) any modification to the Hosted Service made anyone other than RSA or without RSA's express written approval; (d) any claim that relates to Linux or Android open source software, even when it has been embedded into the Hosted Service; (e) any modifications to a Hosted Service made by RSA pursuant to Your specific instructions, or (f) any Hosted Service provided on a no charge, beta or evaluation basis. THIS SECTION 7 STATES YOUR SOLE AND EXCLUSIVE REMEDY AND RSA'S ENTIRE LIABILITY FOR ANY INFRINGEMENT CLAIMS OR ACTIONS.

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

**8.1 Limitation of Liability.** TO THE MAXIMUM EXTENT MANDATED BY LAW, IN NO EVENT WILL RSA AND ITS LICENSORS BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, LOSS OF DATA, OR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE HOSTED SERVICES OR OTHERWISE. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE PRECEDING LIMITATION MAY NOT APPLY TO YOU. RSA'S AND ITS LICENSORS' LIABILITY UNDER THIS AGREEMENT WILL NOT, IN ANY EVENT, REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES YOU PAID FOR THE HOSTED SERVICE IN THE PRIOR TWELVE (12) MONTHS IF ANY. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER RSA OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**8.2 Further Limitations.** RSA's licensors shall have no liability of any kind under this Agreement and RSA's liability with respect to any third party software or third party content provided with the Hosted Service shall be subject to Section 8.1. You may not bring a claim under this Agreement more than eighteen (18) months after the cause of action arises.

## **9. TERMINATION.**

**9.1 Term of Agreement.** This Agreement will terminate in its entirety upon the termination of the Hosted

Service Subscription Term, unless terminated earlier under this Section 9.

**9.2 Termination for Breach.** RSA may terminate this Agreement in its entirety effective immediately upon written notice to You if: (a) You breach any provision in Section 3; (b) You fail to pay any portion of the fees under an applicable Quote within ten (10) days after receiving written notice from RSA that payment is past due; (c) You breach any other provision of this Agreement and don't not cure the breach within thirty (30) days after receiving written notice thereof from RSA; or (d) You commit a material breach that is not capable of being cured.

**9.3 Termination for Insolvency.** RSA may terminate this Agreement in its entirety effective immediately upon written notice to You if You: (a) terminate or suspend Your business; (b) become insolvent, admit in writing Your inability to pay Your debts as they mature, make an assignment for the benefit of creditors; or become subject to control of a trustee, receiver or similar authority; or (c) become subject to any bankruptcy or insolvency proceeding.

**9.4 Effect of Termination.** If RSA terminates this Agreement under this Section 9:(a) all rights to the Hosted Service granted to You under this Agreement will immediately cease to exist; and (b) You must promptly discontinue all access or use of the Hosted Service, and return, or if requested by RSA, destroy, any related RSA Confidential Information in Your possession or control and certify in writing to RSA that You have fully complied with these requirements. Sections 1 (Definitions), 3 (Restrictions; Ownership), 6 (Disclaimer), 8 (Limitation of Liability), 9 (Termination), 10 (Confidential Information) and 11 (Miscellaneous) will any survive termination of this Agreement.

**9.5 Cancellation or Termination of Services.** Payments made are for a full year, no refund is available. If You cancel during your subscription's yearly cycle, You will have access to RSA Adaptive Federation and SaaS Production SnS until the last day of your subscription. There is no pro-rata credit or refund for that Subscription Term. RSA may, without prior notice, immediately terminate, limit your access to or suspend your account and use of the Hosted Service if you fail to comply with any term of this Agreement. RSA expressly reserves the right to suspend your account and use of the Hosted Service in the event you fail to pay the fees in full and on time. RSA reserves the right to cease operating the Hosted Service. In such an event, You will be given three (3) months notice by e-mail or at the website in advance of the termination date ("End of Availability"). RSA will continue to provide technical support the product for 12 months from End of Availability notice. Notice of End of Availability, last date of general commercial availability and timelines for discontinuance shall be provided on the RSA Support Lifecycle Policies web pages.

## 10. CONFIDENTIAL INFORMATION.

**10.1 Definition.** "Confidential Information" means information or materials provided by one party ("Discloser") to the other party ("Recipient") which are in tangible form and labeled "confidential" or the like, or, information which a reasonable person knew or should have known to be confidential. The following information shall be considered Confidential Information whether or not marked or identified as such: (a) Login Credentials; (b) information regarding RSA pricing, product roadmaps or strategic marketing plans; and (c) non-public materials relating to the Hosted Service.

**10.2 Protection.** Recipient may use Confidential Information of Discloser; (a) to exercise its rights and perform its obligations under this Agreement; or (b) in connection with the parties' ongoing business relationship. Recipient will not use any Confidential Information of Discloser for any purpose not expressly permitted by this Agreement, and will disclose the Confidential Information of Discloser only to the employees or contractors of Recipient who have a need to know such Confidential Information for purposes of this Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty hereunder. Recipient will protect Confidential Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature but with no less than reasonable care.

**10.3 Exceptions.** Recipient's obligations under Section 10.2 with respect to any Confidential Information will terminate if Recipient can show by written records that such information: (a) was already known to Recipient at the time of disclosure by Discloser; (b) was disclosed to Recipient by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to, or use of, Discloser's Information. In addition, Recipient will be allowed to disclose Confidential Information to the extent that such disclosure is required by law or by the order of a court of similar judicial or administrative body, provided that Recipient notifies Discloser of such required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

## 11. GENERAL.

**11.1 Assignment.** This Agreement and any Quotes, and any of Your rights or obligations thereunder, may not be assigned, subcontracted or transferred by You, in whole or in part, whether voluntary, by operation of contract, law or otherwise, without the prior written consent of RSA. Any attempted assignment or transfer in violation of the foregoing will be null and void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

**11.2 Notices.** Any notice delivered by RSA to You under this Agreement will be delivered via mail, email or fax.

**11.3 Waiver.** The waiver of a breach of any provision of this Agreement shall not constitute a waiver of any other provision or any subsequent breach.

**11.4 Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable, the provision will be enforced to the maximum extent permissible so as to effect the intent of the parties, and the remaining provisions of this Agreement will remain in full force and effect.

**11.5 Compliance with Laws; Export Control; Government Regulations.** Each party shall comply with all laws applicable to the actions contemplated by this Agreement. You acknowledge that the Hosted Service is of United States origin, is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. You represent that (1) You are not, and are not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) You will not permit the Hosted Service to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. All RSA products, services (including but not limited to pre-packaged professional services offerings and Hosted Services) and publications are commercial in nature. The software, Hosted Services, publications and software documentation are "Commercial Items," as that term is defined in 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are defined in 48 C.F.R. §252.227-7014(a)(1) and 48 C.F.R. §252.227-7014(a)(5), and used in 48 C.F.R. §12.211, 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable. Pursuant to 48 C.F.R. §12.211, 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-19 and other relevant sections of the Code of Federal Regulations, as applicable, RSA's publications, commercial computer software, Hosted Services and commercial computer software documentation are distributed and licensed to United States Government end users with only those rights as granted to all other end users, according to the terms and conditions contained in the license agreements and terms of service that accompany the products and software documentation and the terms and conditions herein.

**11.6 Construction.** The headings of sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word 'including' means "including but not limited to."

**11.7 Governing Law.** This Agreement is governed by the laws of the Commonwealth of Massachusetts, United States of America, unless mandated by other law. The United Nations Convention for the International Sale of Goods shall not apply.

**11.8 Third Party Rights.** Other than as expressly set out in this Agreement, this Agreement does not create any rights for any person who is not a party to it, and no person who is not a party to this Agreement may enforce any of its terms or rely on any exclusion or limitation contained in it.

**11.9 Order of Precedence.** In the event of conflict or inconsistency among this Agreement and the Quote, the following order of precedence shall apply: (a) this Agreement and (b) the Quote. The terms of this Agreement shall supersede and control over any conflicting or additional terms and conditions of any Quote, acknowledgement or confirmation or other document issued by You, unless the parties execute a written agreement expressly indicating: (i) that such Quote shall modify this Agreement; or (ii) that the terms of such Quote shall supersede and control in the event of any inconsistency.

**11.10 Entire Agreement.** This Agreement, including accepted Quotes and any amendments hereto, contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous or contemporaneous communications, representations, proposals, commitments, understandings and agreements, whether written or oral, between the parties regarding the subject matter hereof. This Agreement may be amended only in writing signed by authorized representatives of both parties.

**11.11 Contact Information.** Please direct legal notices or other correspondence to RSA Security LLC at 174 Middlesex Turnpike, Bedford, MA 01730, United States of America; and for legal notices to: [legalnotices@emc.com](mailto:legalnotices@emc.com).

**11.12 Force Majeure.** RSA will not be liable for inadequate performance to the extent caused by a circumstance beyond its reasonable control, including, without limitation, failure of the internet, labor strikes or shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, earthquakes, material shortages and other acts not caused by RSA.

**12. SPECIFIC PRIVACY TERMS & CONDITIONS.** In addition to the above sections, the Hosted Service is subject to the following terms and conditions (*effective date: May 29, 2012*)

- **General Information.** RSA respects the privacy of our customers, business partners and other visitors to our websites. We recognize the need for appropriate protections and management of your personal information that you provide to us. RSA has therefore established this Privacy Statement to assist you to understand what personal information we collect and how that personal information is used.

- **EU-US Safe Harbor.** RSA adheres to the U.S.-E.U. Safe Harbor Framework and the U.S.-Swiss

Safe Harbor Framework ("Safe Harbor") as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information from the European Union, the European Economic Area, and Switzerland. RSA has certified that it adheres to the Safe Harbor Privacy Principles of notice, choice, onward transfer, security, data integrity, access and enforcement. To learn more about the Safe Harbor program, and to view EMC's certification, please visit [www.export/safeharbor](http://www.export/safeharbor).

- **What personal information does RSA collect?** On RSA web sites you can order products or services, register products, request information, subscribe to marketing or support materials, register to a secure extranet site to obtain access to product information, support, services and training, or apply for jobs at RSA. RSA may collect information about individuals such as their name, address, telephone number or email address, user IDs and passwords, billing and transaction information, credit card or other financial information and contact preferences. Personal information collected online may be supplemented with information you provide to RSA through other RSA services, as well as other sources such as trade shows or seminars, and other data appending methods such as spot tags, tracking and cookies as referenced below.

- **How does RSA use personal information?** RSA will use personal information to provide customers, business partners and website visitors with information and services and to help us better understand your needs and interests. Specifically, we use your information to help you complete a transaction or order, to communicate with you, to deliver products/services to you, to bill you for products/services you purchased, and to provide ongoing service and support. We may also pass on your information to a third party, such as a partner, if you have asked us to do so. Occasionally we may use your information to contact you to complete surveys that we use for marketing and quality assurance purposes.

- **With whom does RSA share personal information?** RSA contracts with third party service providers and suppliers (including distributors and resellers) to deliver certain products, services and customer solutions. RSA may share personal information with its service providers and suppliers to the extent needed to deliver the service or respond to requests for information on products or services or otherwise support the customers' business needs. Third party service providers and suppliers receiving personal information are expected to apply the same level of privacy protection as contained in this Privacy Statement. They are required to keep confidential the personal information received from RSA and may not use it for any purpose other than as originally intended.

Some RSA services may be co-branded and offered in conjunction with another company. If you register for or use such services, both RSA and the other company may receive information collected in conjunction with the co-branded services.

Except as described in this Privacy Statement, RSA is not in the business of selling or renting your information to others and will not share personally identifiable information with other third parties without your permission, unless required by, or in connection with, law enforcement action, subpoena or other litigation, or applicable law or in connection with a prospective or actual sale, merger, transfer or other reorganization of all or parts of our business, or within the group of affiliated RSA companies, if and to the extent legally permissible.

We reserve the right to fully use and disclose any information that is not in personally identifiable form.

- **Communication Preferences.** If you would like to receive or unsubscribe from receiving marketing communications, please send an email to [support@rsa.com](mailto:support@rsa.com)

- **Access.** If you would like to request access to personal information that we may have collected from you (possibly subject to handling fees), please contact [support@rsa.com](mailto:support@rsa.com). To protect your privacy and security, we may take steps to verify your identity, such as a password and user ID, before granting access to data.

- **Security of Personal Information.** RSA is committed to taking reasonable efforts to secure the personal data you choose to provide us. To protect the privacy of any personal information you may have provided, RSA employs industry-standard controls including physical access controls, encryption, Internet firewalls, intrusion detection, and network monitoring. In addition, access to confidential information is limited to those individuals and agents having a need to know.

- **Forums and Blogs.** Some of RSA's websites allow our users to publish content via discussion forums, blogs, user-editable documents, and commenting systems. Any information that is disclosed in these forums becomes public information which could be read, collected or used by other users to send you unsolicited messages. We are not responsible for the personally identifiable information you choose to submit in these forums. You should exercise caution when deciding to disclose your personal information.

RSA may, from time to time, send email regarding our products and services to users who have posted to our discussion forums, blogs, user-editable documents, and commenting systems. Each participant's opinion expressed is his or her own and should not be considered as reflecting the opinion of RSA. Note also that your use of these online communication tools is subject to our Terms of Use, which contain disclaimers, limitations of liability and a choice of California law. Personal information given to RSA may be transferred across state and country borders for data consolidation, storage and simplified information management.



- **Cookies, Logging and Spotlight Tags.** RSA uses cookies on some of its web sites. Cookies are small amounts of data sent to your browser from a web server and stored on your computer's hard drive. Cookies can help a website recognize repeat users, and allow a website to track web usage behavior. Cookies work by assigning a number to the user that has no meaning outside of the assigning website. If a cookie is placed, thereafter when you visit a web site, a message is sent back to the web server by the browser accessing the web site. You can set your browser to notify you when you are sent a cookie, and you may also elect not to accept cookies by changing the designated settings on your web browser. However, not utilizing cookies may prevent you from using certain functions and features of web sites.

RSA uses some cookies that are strictly necessary for the delivery of services on our website. Cookies that are strictly necessary allow us to improve the safety and security of our website, authenticate account users, allow you to access your private accounts on our site, allow you to sign into many portals with the use of only one login, balance the traffic on our site, and remember information that you have submitted on forms when you request services on our site. Cookies that are strictly necessary do not gather any information about you that could be used for marketing or remembering where you've been on the internet.

RSA also uses cookies to improve our service to you and personalize your web-browsing experience, such as by gaining a better understanding of your interests and requirements regarding our website. Cookies that RSA uses to improve your website experience may remember your language and site preferences, invite you to participate in surveys and evaluations, show you when you are logged into our system and allow you to remain logged-in for a period of time, provide you with support services including our live chat service, remember your login information, and prepopulate forms that you have already completed.

RSA also uses 'performance' cookies that collect information about how you use our website, including which pages you visit, and if you experience any errors. These cookies don't collect any information that could identify you and use anonymous information to provide statistics on how our website is used, help us improve our website by measuring any errors, test different designs on our site, and help us measure the traffic on our site so that we can optimize our content accordingly. RSA's performance cookies are only used to help us improve how our website works, understand what interests our users and measure how effective our advertising is.

Some RSA pages use cookies that permit select third party partners, including Google, Adobe and Demandbase, to serve you RSA-related content, including RSA advertisements, on their sites or elsewhere on the Internet. This is based on your prior visits to our site. Additionally, third parties may use cookies to allow you to link to social networking sites like Facebook and LinkedIn and may analyze your activity and your purchase selections in our online store. As noted above, you can set your browser to notify you when you receive a cookie, giving you the chance to decide whether to accept it. You can control whether or not these cookies are used, but preventing them may stop us from offering you some services. Alternatively you may use the third parties' own tools to prevent these cookies. You may also opt out of Google's use of cookies by visiting <http://www.google.com/privacy/ads/>, and you may opt out of Adobe's use of cookies and web beacons by visiting <https://documents.hitbox.com/optout.html>

As is true of most websites, RSA collects and/or logs Internet Protocol addresses, Internet domain names, the web browser and operating system used to access the RSA web site, the website visitor's location, the files visited, the time spent in each file, and the time and date of each visit. RSA collects these through the use of log files and web beacons.

- **Links to Non-RSA Websites and Third Parties.** The RSA web sites may provide links to third-party web sites for your convenience and information. If you access those links, you will leave the RSA website. RSA does not control those sites or their privacy practices, which may differ from RSA policy. We do not endorse or make any representations about third party web sites. The personal data you choose to give to unrelated third parties is not covered by the RSA Privacy Statement. We encourage you to review the privacy policy of any company before submitting your personal information. Some third party companies may choose to share their personal data with RSA; that sharing is governed by that third party company's privacy policy.

- **Contact Information.** If you have any questions regarding this Privacy Statement or believe that the privacy of your personal information has not been respected, you may submit a complaint in writing to: [support@rsa.com](mailto:support@rsa.com) If you have a comment or concern that cannot be resolved with RSA directly, you may contact the competent local data protection authority.

- **Changes to this Statement.** RSA will review and update this Privacy Statement periodically and will note the date of its most recent revision above. If we make material changes to this Statement, we will notify you either by prominently posting a notice of such changes prior to implementing the changes or by directly sending you a notification. We encourage you to review this Privacy Statement frequently to be informed of how RSA is protecting your information.