



## SERVICE AGREEMENT FOR THE RSA CYBERCRIME INTELLIGENCE SERVICE

THIS SERVICE AGREEMENT FOR RSA CYBERCRIME INTELLIGENCE SERVICE ("**AGREEMENT**") IS EFFECTIVE AS OF THE DATE OF THE CUSTOMER'S SIGNED ACCEPTANCE 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 CYBERCRIME INTELLIGENCE SERVICE ("**CCIS**") (AS DEFINED BELOW).

### 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.

- (a) "**Confidential Information**" has the meaning set forth in Section 9;
- (b) "**Crimeware**" means software or other applications or executables designed to misappropriate personal credentials, personal data and/or to engage in fraudulent transactions using improperly obtained identity information, all for the purpose of assisting with or performing illegal or improper acts;
- (c) "**Documentation**" means the manuals, handbooks and/or other information outlining the functionality of the CCIS whether in hard copy or soft copy form, that RSA may provide with the CCIS;
- (d) the "**eFraudNetwork<sup>SM</sup>**" database means a database 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. For the avoidance of doubt, the eFraudNetwork<sup>SM</sup> database does not include any Confidential Information of the Parties or any Non Public Personal Information as defined in Section 9(d) below;
- (e) "**Information**" means certain information delivered by RSA to Customer in the performance of the CCIS and which may appear to indicate specific, ongoing or planned fraudulent exploits and vulnerabilities which may relate to or may affect the business of the Customer;
- (f) "**CCIS**" shall mean RSA's service designed to both identify data, and other information of Customer which may have been misappropriated by certain third parties using Crimeware and provide malware known communication channels and domains, which is offered to Customer as a managed service under this Agreement and further detailed in Exhibit A. The CCIS shall also include without limitation: any and all Intellectual Property pertaining thereto and the Documentation;
- (g) "**Intellectual Property**" shall include, without limitation, copyrights, trade-secrets, service names, trademarks, 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;
- (h) "**Purchase Order**" means an order for CCIS placed by Customer.
- (i) "**Quote**" or "**Quotation**" means one or more documents issued by RSA specifying the CCIS, the related pricing and sufficient other information to complete the transaction. Each Quote shall incorporate this Agreement by reference.

### 2. Provision of the CCIS

Subject to the terms and conditions of this Agreement, and for so long as the Customer is current on the payment of any and all applicable amounts due to RSA hereunder, RSA will provide the CCIS to Customer, for the term of this Agreement, on a non-exclusive and non-transferable basis.

### **3. Personnel**

Personnel. Each party will designate a project manager who will manage, coordinate and oversee the performance of each Party's obligations under this Agreement.

### **4. Service Providers**

RSA shall remain at all time liable and responsible for the actions and omissions of all employees, subcontractors, and partners (other than RSA) that it may use in connection with the CCIS or this Agreement.

### **5. Service Setup**

RSA shall implement and launch the CCIS in accordance with the subscription form which the Parties shall use their reasonable endeavors to complete within seven (7) business days from the time the subscription setup form was received and subsequently accepted by RSA.

### **6. Ownership, Intellectual Property Rights and License**

(a) RSA, its subcontractors and partners shall retain and own all right, title and interest and all Intellectual Property Rights in and to the CCIS and nothing herein transfers or conveys to the Customer any ownership right, title or interest in or to the CCIS or any license right with respect to same not expressly granted herein.

(b) The eFraudNetwork. RSA shall retain and own all right, title and interest and all Intellectual Property 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 a non-exclusive, fully-paid and perpetual right to use, distribute and/or otherwise make available such information).

### **7. Representations and Warranties**

(a) CCIS Warranty. RSA warrants that the CCIS it provides hereunder will be carried out in a professional manner and conforming to generally accepted industry standards. Where the performance of the CCIS is discovered to be deficient then Customer shall, within ten (10) days after discovery of the CCIS deficiency, submit to RSA a report describing the deficiency in reasonable detail and RSA shall correct and wherever possible re-perform the deficient CCIS. RSA's entire liability, and Customer's sole remedy, for RSA's failure to re-perform shall be for Customer to terminate this Agreement and refund that portion of any fees received that corresponds to the remaining period following termination for which RSA had committed to provide the CCIS.

(b) Any Information collected and/or otherwise obtained by RSA and subsequently delivered to Customer pursuant to the CCIS is provided "AS IS". RSA makes no warranties or representations that the Information provided is accurate, complete, and up to date. The Customer further acknowledges and agrees that RSA is forwarding such Information without alteration and that RSA is not the owner, originator or the author of any Information delivered hereunder.

(c) RSA does not warrant that Information collected pursuant to the CCIS will meet any specific criteria, including but not limited to compliance with any "chain of custody and/or chain of evidence" protocols, which may be required for the Information to be admitted as evidence in any criminal or civil proceeding before any jurisdiction.

(d) No Warranty to Third Parties. NOTHING IN THIS AGREEMENT IS INTENDED TO CONSTITUTE OR CREATE ANY REPRESENTATION OR WARRANTY BY RSA TO ANY THIRD PARTY, DIRECTLY OR AS A THIRD PARTY BENEFICIARY, WITH RESPECT TO THE CCIS OR OTHERWISE.

(e) Customer represents and warrants: (1) that the information provided in the Service Subscription Form (or any updates thereto provided by Customer from time to time) is complete and accurate; (2) that it shall, at all times during the term of this Agreement, maintain all the necessary and/or required authorizations from its customers or any other third party in order for RSA to fully perform its obligations under this Agreement.

(f) Disclaimer of Warranties. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, RSA MAKES NO AND HEREBY SPECIFICALLY DISCLAIMS ANY, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CCIS 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, NON INFRINGEMENT OR TITLE, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. RSA MAKES NO WARRANTY THAT THE CCIS WILL PREVENT FRAUD.

### **6. Fees.**

(a) Fees and Payment Schedule. In consideration of the CCIS rendered under this Agreement, Customer shall pay RSA the Service Fee as set forth in the applicable Quotation. All payments hereunder are due net 30 days from

invoice, unless otherwise agreed by the Parties in writing. Overdue payments are subject to a finance charge of 1% per month (12% per year), plus all expenses incurred by RSA in collecting such overdue amounts.

(b) Currency; Interest. Customer shall pay all fees and other amounts due pursuant to this Agreement solely and exclusively in US Dollars.

(c) Taxes. All payments hereunder are exclusive of any and all sales, use, excise, import, export, value added and similar taxes and governmental charges. If, under applicable law, Customer is required to withhold any tax, then RSA may require that the amount of the applicable payment shall be automatically increased to totally offset such tax so that the amount actually remitted to RSA, net of all taxes, equals the amount invoiced or otherwise due.

## 8. Limitation of Liability

(a) RSA'S (INCLUDING ITS LICENSORS, SUPPLIERS AND SUBCONTRACTORS) TOTAL LIABILITY TO CUSTOMER SHALL BE LIMITED TO ACTUAL DIRECT DAMAGES TO THE EXTENT CAUSED SOLELY BY RSA'S NEGLIGENT ACTS OR OMISSIONS, UP TO A MAXIMUM LIABILITY EQUAL TO \$50,000 USD.

(b) EXCEPT FOR CLAIMS ARISING OUT OF VIOLATIONS OF RSA'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL EITHER PARTY OR ITS LICENSORS, SUPPLIERS OR SUBCONTRACTORS BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES, LOST BUSINESS PROFITS, OR LOSS, DAMAGE OR DESTRUCTION OF DATA, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF WARRANTY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME. RSA EXPRESSLY DISCLAIMS NO LIMITATION AS TO DAMAGES FOR PERSONAL INJURY IS HEREBY INTENDED. Neither Party shall bring any action, whether in contract or tort, including negligence, arising out of or in connection with this Agreement, more than two years after the cause of action has accrued.

## 9. Confidential Information

(a) Confidential Information. As a result of the relationship entered into by the Parties under this Agreement, the Parties acknowledge that they may from time to time require or gain access to information that is confidential or proprietary to one another. All information disclosed by a Party hereunder that (1) is in writing and marked with an appropriately restrictive legend indicating the confidential or proprietary nature of the information, (2) is disclosed orally and reduced to a writing marked with an appropriately restrictive legend promptly after the oral disclosure, is referred to herein as "**Confidential Information**". For avoidance of doubt, Customer shall treat the terms of this Agreement and any SOW as RSA's Confidential Information.

(b) Obligations. The receiving Party (1) shall hold all Confidential Information in confidence; (2) shall use the Confidential Information only for the purpose of performing its obligations under this Agreement; (3) shall reproduce the Confidential Information only to the extent necessary for such purpose; (4) shall restrict disclosure of the Confidential Information to its employees, consultants, agents, subcontractors, partners, and representatives with a need to know and who are bound to protect the confidentiality of such Confidential Information (and shall advise such employees, agents and representatives of the obligations assumed herein); and (5) shall not disclose or cause to be disclosed the Confidential Information to any third party without prior written approval of the disclosing Party, except as allowed under (4) above.

(c) Exceptions. The foregoing restrictions do not apply to Confidential Information that (1) is or becomes a part of the public domain through no wrongful act or omission of the receiving Party; (2) was in the receiving Party's lawful possession before the disclosure and had not been obtained by the receiving Party either directly or indirectly from the disclosing Party; (3) is lawfully disclosed to the receiving Party by a third party without restriction on disclosure; (4) is independently developed by the receiving Party without reference to or reliance on the Confidential Information; or (5) the disclosing Party agrees in writing is free of such restrictions.

(d) Privacy Legislation. 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. Therefore, with the exception of any such data recovered by RSA in the performance of the CCIS or contained within the eFraudNetwork and, in either case, subsequently disclosed to Customer, 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 or similar government identity numbers or personal financial account numbers (herein "**Non Public Personal Information**").

(e) Legally required disclosures. The obligations of confidentiality assumed under this Agreement shall not apply to the extent that the receiving Party is required to disclose the disclosing Party's Confidential Information by reason of applicable law, regulation or an order from a court, regulatory agency or other governmental authority having competent jurisdiction to compel such disclosure provided always that the receiving Party:

(1) promptly notifies the disclosing Party of the disclosure requirement (and where possible provide the disclosing Party with an opportunity to seek a protective order);

(2) where reasonably possible provides the disclosing Party with reasonable cooperation in its efforts to resist the disclosure, upon reasonable request by the disclosing Party and at the disclosing Party's expense; and

(3) disclose only the portion of the disclosing Party's Confidential Information that is required to be disclosed under such law, regulation or order.

#### **10. Term and Termination**

(a) Term of this Agreement. This Agreement shall commence and become effective from the Customer's signed acceptance of the Quotation and shall remain in effect for a period specified in the Quotation counted from the date the CCIS is first activated (the "**Activation Date**") (the "**Initial Term**"). Following the Initial Term, the Agreement will be renewed for subsequent twelve (12) month terms (each a "**Renewal Term**"), unless not less than sixty (60) days prior to the end of the Initial Term (or any subsequent Renewal Term), either Party indicates in writing to the other its intention not to renew this Agreement.

(b) This Agreement may be terminated by any of the Parties as follows:

(1) by either Party, upon thirty (30) days' prior written notice to the other Party (specifying in reasonable detail the nature of the material breach), if such other Party materially breaches this Agreement and fails to cure such breach within such thirty (30) day period.

(2) by either Party immediately upon written notice to the other Party if: (1) a receiver is appointed for such other Party or its property, (2) such other Party makes an assignment for the benefit of its creditors, (3) any proceedings are commenced by, for, or against such other Party under any bankruptcy, insolvency or debtor's relief law for the purpose of seeking a reorganization of such other Party's debts, and such proceeding affects the quality of services such Party provides under this Agreement, or (4) such other Party is liquidated or dissolved.

(c) Effect of Termination. Promptly upon any termination of this Agreement: (i) Customer shall pay to RSA any and all amounts then due and outstanding to each other under this Agreement; (ii) except as otherwise expressly provided herein, RSA shall immediately cease providing the CCIS to Customer and (iii) each Party shall: stop using all Confidential Information, trademarks and/or any other proprietary materials of the other Party then under its possession or control.

(d) Survival. The following provisions shall survive any termination of this Agreement: Sections 6; 8; 9; 10(c) and 11.

#### **11. General Terms**

(a) Relationship of the Parties. The relationship between Customer and RSA is solely that of independent contractors and not that of an agency, partnership, or joint venture. Neither Party has the authority to represent or bind the other.

(b) Force Majeure. Neither Party will be held responsible for any delay or failure in performance of its obligations hereunder to the extent such delay or failure is caused by fire, flood, strike, civil, governmental or military authority, act of terrorism or war, act of God, or other similar causes beyond its reasonable control and without the fault or negligence of the delayed or non-performing Party or its subcontractors.

(c) Entire Agreement; Modification and Waiver; Third-Party Beneficiaries. This Agreement constitutes the entire understanding between Customer and RSA with respect to the subject matter hereof. Terms and conditions set forth in any Purchase Order or other document provided by Customer to RSA that differ from, conflict with, or are not included in this Agreement are not part of any agreement between RSA and Customer unless specifically accepted by RSA in writing. This Agreement shall not be deemed or construed to be modified, amended or waived, in whole or in part, except by written agreement of the Parties hereto. The failure of either Party, in any one or more instances, to enforce any of the terms of this Agreement shall not be construed as a waiver of future enforcement of that or any other term.

(d) Assignment. Neither Party may assign, subcontract, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder without the other Party's prior written approval, whether by contract, operation of law or otherwise. Any attempt to do so without such approval shall be void. Subject to the foregoing sentence, this Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective successors and assigns. Notwithstanding the foregoing, neither Party need obtain the consent of the other Party prior to assigning this Agreement: (1) to an affiliate of the assigning Party; or (2) to any third party acquiring all or substantially all of the assets relating to this Agreement or a controlling interest in the voting stock or voting interest of the assigning Party or any controlling affiliate of the assigning Party. RSA may at any time upon written notice assign all or part of its rights hereunder to its parent company, EMC Corporation of Hopkinton, MA. of which it is a wholly owned subsidiary

(e) Notice. All notices given by either Party to the other Party under this Agreement shall be in writing and personally delivered or sent by guaranteed overnight courier, by registered or certified mail, return receipt requested, to the other Party's General Counsel, at its address set forth above.

(f) Severability. If any provision of this Agreement is for any reason held illegal or unenforceable, then such provision shall be deemed separable from the remaining provisions of this Agreement and shall in no way affect or impair the validity or enforceability of the remaining provisions of this Agreement.

(g) Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of laws principles. The Parties hereby: (1) irrevocably commit to the exclusive jurisdiction of the federal and state courts located in the Commonwealth of Massachusetts for the purpose of any suit, action or proceeding arising out of this Agreement, the subject matter hereof or any of the

transaction contemplated hereby brought by either Party or its successors or assigns; (2) waives, and agrees not to assert, by way of motion, as a defense or otherwise, in such suit, action or proceeding, to the fullest extent permitted by applicable law, that the suit, action or proceeding is brought in an inconvenient forum, that the venue or the suit, action or proceeding is improper, that that this Agreement, or the subject matter hereof or any of the transactions contemplated hereby may not be enforced in or by such courts; (3) waives the right to trial by jury of any suit, action or proceeding; and (4) waives any right, claim, or entitlement to any punitive or exemplary damages whatsoever, except as otherwise provided in this Agreement.

(h) Compliance with Laws. Each Party will comply with all applicable laws and will obtain, and will maintain in full force and effect, all licenses, permits, approvals, and other authorizations that are necessary or required to perform its obligations under this Agreement.

(i) Titles and Headings. The titles and headings of the Sections and other subdivisions of this Agreement are for convenience of reference only and shall not modify, define or limit any of the terms or provisions of this Agreement.

(j) Counterparts. The Parties may execute this Agreement in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

(k) Language. This Agreement has been drawn up in and shall be construed in accordance with the English language.



## EXHIBIT – A

### CYBERCRIME INTELLIGENCE SERVICE: DESCRIPTION

This Exhibit A specifies the components which form part of the CCIS:

From the Activation Date, the CCIS shall be provided with respect to all brands of the Customer (hereinafter the “**Customer Brand(s)**”):

A Customer Brand is one unique trademark, trade name, service mark, or other designation for which the Customer claims ownership or rights thereto.

The CCIS described herein is a service whereby RSA reviews on a weekly basis, its data repositories which contain credentials and other sensitive information collected through its RSA® FraudAction<sup>SM</sup> services. RSA collects and analyzes Information in its repositories for information that indicates possible identity credential theft, computers infected by Crimeware, or ongoing or planned fraudulent exploits and vulnerabilities which may relate to or may affect the business of the Customer.

The CCIS features are:

#### 1. Identification of Compromised Information

1.1 RSA will use commercially reasonable efforts to search its repositories in order to:

- (i) identify RSA SecurID® accounts, and IP addresses misappropriated from the Customer and/or its accounts holders; and
- (ii) identify Customer resources infected or otherwise exploited using fraudulent means by IP address or other commonly accepted computer and/or computer network naming conventions (collectively, “**Compromised Information**”).

1.2 For the avoidance of doubt, RSA will not investigate any specific incidence(s) of wrongdoing or actively seek to uncover evidence of wrongdoing on behalf of the Customer.

#### 2. CCIS Reports

RSA will provide two types of CCIS reports

1.1 A report containing information found in data repositories that contain infected IP addresses and other sensitive information. This report will be provided on a weekly basis when RSA determines that it has identified Compromised Information and it would be in the Customer’s interest to learn of a potential risk based on RSA’s findings.

1.2 A blacklist which contain hosts and IPs of known malware resources. This report will be provided on a daily basis when RSA determines that it has identified malware resources and it would be in Customer’s interest to learn of a potential risk based on RSA’s findings.

1.3 The CCIS reports will be uploaded to a dedicated secured server where the Customer will be able to login into and download the reports. Once a new report has been uploaded to the server, an email notification will be sent to a pre determined contact of Customer’s personnel (as specified in the CCIS subscription form. Customer may change the contact from time to time, by written notification to RSA). Customer will not share its login credentials with any third party

Notwithstanding RSA efforts to search for Compromised Information, from time to time no Compromised Information might be found or available. Under these circumstances the above reports delivered to the Customer will be empty.

#### 3. IMPORTANT DISCLAIMERS RELATING TO THE CYBERCRIME INTELLIGENCE SERVICE

3.1 The Customer acknowledges and agrees that in certain jurisdictions RSA may, with or without prior notice to the Customer, be compelled by law to disclose Information collected in the performance of the CCIS to law enforcement or other public authorities notwithstanding any recommendations and/or instructions of the Customer to the contrary and any such disclosure will not be a breach of Section 9 of the Agreement or any other section thereof.

3.2 Subject to RSA's reasonable discretion, RSA will cooperate with law enforcement authorities as requested by the Customer (and at Customer's sole cost and expense) in order to provide reasonable assistance with the apprehension of fraudsters seeking to use information misappropriated from the Customer for unlawful purposes. Notwithstanding the above, RSA will provide such cooperation only in accordance with the Agreement.

3.3 RSA will not act on behalf of the Customer or as the Customer’s agent or representative for the purpose of its cooperation with law enforcement agencies and neither will RSA act as Customer’s adviser or

- provide the Customer with any advice including but not limited to any legal, technical or other advice in relation to its use of the Information sent to Customer as a result of performing the CCIS.
- 3.4 The Parties further acknowledge that the CCIS may present risks including but not limited to potential acts of retaliation by Fraudsters which may be directed against RSA and/or the Customer and/or the Customer's account holders and/or any number of third parties.

**4. Hosting, Hardware and Software**

RSA, its subcontractors and partners will provide and host all hardware, software, database and communications equipment necessary to support the CCIS as described in this Exhibit A.

**5. The RSA eFraudNetwork database**

The eFraud Network database will be leveraged by RSA for the provision of the CCIS.

**6. Support**

The CCIS is available during RSA's standard office hours and any issue will be resolved pursuant to RSA's standard CCIS warranty.