



PROFESSIONAL SERVICES TERMS & CONDITIONS FOR OUTSEER PRODUCTS

*****IMPORTANT*****

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

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

THIS AGREEMENT IS A LEGALLY BINDING DOCUMENT BETWEEN YOU (MEANING THE INDIVIDUAL PERSON OR THE ENTITY THAT THE INDIVIDUAL REPRESENTS THAT HAS OBTAINED THE SOFTWARE FOR ITS INTERNAL PRODUCTIVE USE AND NOT FOR OUTRIGHT RESALE) (THE "**CUSTOMER**") AND OUTSEER (WHICH MEANS (I) RSA SECURITY LLC, IF CUSTOMER IS LOCATED IN THE UNITED STATES, MEXICO OR SOUTH AMERICA; (II) THE LOCAL RSA SALES AFFILIATE, IF CUSTOMER IS LOCATED OUTSIDE THE UNITED STATES, MEXICO OR SOUTH AMERICA AND IN A COUNTRY IN WHICH RSA HAS A LOCAL RSA SALES AFFILIATE; OR (III) RSA SECURITY & RISK IRELAND LIMITED OR OTHER AUTHORIZED RSA ENTITY AS IDENTIFIED ON THE RSA QUOTE OR STATEMENT OF WORK, IF CUSTOMER IS LOCATED OUTSIDE THE UNITED STATES, MEXICO OR SOUTH AMERICA AND IN A COUNTRY IN WHICH RSA DOES NOT HAVE A LOCAL SALES AFFILIATE).

THIS AGREEMENT SETS FORTH THE TERMS AND CONDITIONS UNDER WHICH CUSTOMER MAY PERIODICALLY ENGAGE OUTSEER TO PROVIDE CERTAIN PROFESSIONAL, EDUCATIONAL, OPERATIONAL AND TECHNICAL SERVICES ("**SERVICES**") TO CUSTOMER ON A PROJECT BASIS PURSUANT TO A STATEMENT OF WORK THAT WILL BE ENTERED INTO BETWEEN OUTSEER AND CUSTOMER ("**SOW**") FOR EACH ENGAGEMENT. SOWS MAY, AMONG OTHER THINGS, CONSIST OF (I) A SEPARATELY EXECUTED, LONG FORM SERVICES SPECIFICATION; OR (II) A SHORT FORM SERVICE DESCRIPTION (A "**SERVICE BRIEF**"). ALL REFERENCES TO SOW SHALL INCLUDE, WHERE APPLICABLE, THE SERVICE BRIEFS.

This Agreement may be superseded by any written agreement signed by both Customer and Outseer.

1. DEFINITIONS.

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

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

2. SERVICES.

A. Scope. Outseer shall provide the services described in a SOW that details the relationship of the parties with regard to a specific project. Each SOW shall (i) be signed by the parties; (ii) incorporate by reference this Agreement; and (iii) state the pertinent business parameters, including, but not limited to, pricing, payment, expense reimbursement, and a detailed description of the Services to be provided. In the case of the Service Brief, related pricing is as stated in a quote to Customer from Outseer. In case of conflict between the SOW and the terms of this Agreement, the SOW shall normally take precedence. However, to the extent that the SOW contains terms that conflict with terms in the Agreement pertaining to intellectual property and/or proprietary rights, indemnification, warranty (including remedies and disclaimers), and/or limitation of liability, the conflicting terms in the SOW shall supersede those in the Agreement only if the SOW clearly indicates that the parties are intentionally overriding the terms in the Agreement solely for purposes of such SOW. The Professional Services and resulting Deliverables may include advice and recommendations, but Customer agrees that all decisions whether to implement, in whole or in part, any Deliverables, advice, or recommendations are solely Customer's responsibility. Outseer is not providing legal or regulatory advice in any Professional Services.

B. Placement of Outseer Personnel. Outseer shall have the sole responsibility for personnel placement as well as for all other human resources issues (e.g. vacation). Outseer will only utilize employees or contractors that are sufficiently qualified. If specific Outseer personnel cease to perform due to illness, resignation or any other reason, Outseer shall without undue delay use reasonable efforts to provide a substantially equivalent replacement as soon as reasonably possible. Outseer's contact person responsible for liaising with Customer will exclusively be the person identified by Outseer as being responsible for the project. No employee/employer relationship is intended or shall be established by any SOW.

- C. Standard Work Day. The standard work day is any eight (8) hour period of work, between 8:00 AM and 6:00 PM, Monday through Friday, excluding public holidays at the Outseer location providing Professional Services.
- D. Customer Responsibilities. Customer agrees to provide Outseer with the full cooperation it needs to perform the Professional Services. This includes timely access to Customer office accommodations, facilities, network, computer systems, and storage equipment. Customer also agrees to provide assistance and complete and accurate information and data from officers, agents, project sponsors, subject matter experts, and employees as Outseer may request, in addition to suitably configured, licensed, and operational computer and storage products involved in delivery of the Professional Services. If Customer fails to provide the requisite cooperation on a timely basis, Outseer will be relieved of any schedule, milestone, or financial commitments associated with the Professional Services. Customer remains responsible for the physical and network security of Customer's environment. Customer shall also perform its specific obligations as described in the relevant SOW, and, if necessary, assist and support Outseer in the provision of the Professional Services as reasonably requested by Outseer, and shall provide all conditions in its business necessary for due performance of Professional Services by Outseer.

3. TERM AND TERMINATION.

- A. Term; Survival. The term of this Agreement commences on the later date of execution of an applicable SOW and shall remain in effect unless terminated as provided below. Upon any termination of this Agreement, Sections 1, 2, 3, 4, 5, 6 7(B), and 8 through 13 hereof shall survive in accordance with their terms. Termination of this Agreement or any SOW shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer of its obligation to pay all fees and expenses for all Services performed, including any Deliverables associated with such Services, as of the date of termination.
- B. Termination for Convenience. Either party may terminate this Agreement for convenience by providing the other with written notice, which termination shall become effective upon the later of (1) fourteen (14) days after receipt of such notice by such other party or (2) completion and payment for the Services set forth in any SOW(s) effective on the date of receipt of such notice. A termination for convenience for any SOW shall only be permitted if expressly agreed in the SOW.
- C. Termination for Breach. Either party may notify the other in writing in case of the other's alleged breach of a material provision of this Agreement and/or an applicable SOW. The recipient shall have thirty (30) days from the date of receipt of such notice to effect a cure. If the recipient of the notice fails to effect a cure within such period, then the sender of the notice shall have the option of sending a written notice of termination of the applicable SOW(s), or the Agreement if the breach affects multiple SOWs, which notice shall take effect upon receipt.

4. PROPRIETARY RIGHTS.

- A. Grant of License Rights in Deliverables. Subject to (a) Customer's payment to Outseer of any applicable Professional Services fees, (b) Customer's compliance with the terms of the Agreement, any applicable SOW(s), and (c) Outseer's Proprietary Rights incorporated into any Deliverables, Outseer grants Customer a non-exclusive, non-transferable, non-sublicensable license to use, copy, and create derivative works from the Deliverables for Customer's internal business operations, as contemplated by the applicable SOW(s). The license granted in this section does not apply to: (i) Customer-furnished material; (ii) any Products; (iii) any Third Party Products; or (iv) items licensed or otherwise provided under a separate agreement.
- B. Reservation of Proprietary Rights. Each party reserves for itself all Proprietary Rights that it has not expressly granted to the other. Outseer shall not be limited in developing, using or marketing services or products which are similar to the Deliverables or Professional Services provided hereunder, or, subject to Outseer's confidentiality obligations to Customer, in using the Deliverables or performing similar Professional Services for any other projects.
- C. Third Party Products. Customer grants Outseer a non-exclusive, non-transferable right to use Third Party Products that Customer provides for Outseer's use to perform the Professional Services described in an applicable Service Agreement(s) document. Any configuration or modification that Outseer makes to any Customer-provided Third Party Products or work product incorporating Third Party Products is subject to Customer's agreement with the applicable third party.

5. CONFIDENTIALITY.

- A. Confidential Information. "**Confidential Information**" means any information that is marked "confidential" or "proprietary" or any other similar term or in relation to which its confidentiality should by its nature be inferred or, if disclosed orally, is identified as being confidential at the time of disclosure and, within two (2) weeks thereafter, is summarized, appropriately labeled and provided in tangible form. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without prior obligation of confidentiality from the disclosing party; (ii) a matter of public knowledge; (iii) rightfully furnished to the receiving party by a third party without confidentiality restriction; or (iv) independently developed by the receiving party without reference to the disclosing party's Confidential Information. Each party shall (a) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Agreement or any purchase order hereunder; and (b) protect from disclosure to any third parties, by use of a standard of care equivalent to that as used by recipient to protect its own information of a similar nature and

importance, and, no less than the use of reasonable care, any Confidential Information disclosed by the other party for a period commencing upon the date of disclosure until three (3) years thereafter, except with respect to (1) Customer data to which Outseer may have access in connection with the provision of Services, which shall remain Confidential Information until one of the exceptions stated in the above definition of Confidential Information applies; and (2) Confidential Information that constitutes, contains or reveals, in whole or in part, Outseer proprietary rights, which shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, the receiving party may disclose Confidential Information (A) to its Affiliate for the purpose of fulfilling its obligations or exercising its rights hereunder as long as such Affiliate complies with the foregoing; and (B) to the extent required by law (provided the receiving party has given the disclosing party prompt notice).

- B. Publicity. Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this Agreement or any SOW entered into hereunder, without the prior written approval of the other, which approval shall not be unreasonably withheld; provided, however, that Outseer may identify Customer for reference purposes.
6. PAYMENT TERMS. Outseer shall submit invoices for fees and reimbursable costs and expenses and Customer shall pay each invoice in the manner specified in the applicable SOW. Customer will also pay all related taxes and withholdings, except for those based on Outseer's net income. If Customer is required to withhold taxes, then Customer will forward any withholding receipts to Outseer. Subject to Outseer's credit approval, all amounts are due in the currency stated on the invoice and in full thirty (30) days after the date of Outseer's invoice, with interest accruing thereafter at the lesser of 1.5% per month or the highest lawful rate.
7. WARRANTY.
- A. Warranty. Outseer shall perform Services in a workmanlike manner in accordance with generally accepted industry standards. Customer must notify Outseer of any failure to so perform within ten (10) days after the performance of the applicable portion of the Services. Outseer's entire liability, and Customer's sole remedy, for Outseer's failure to so perform shall be for Outseer to, at its option, (i) use reasonable efforts to correct such failure, and/or (ii) terminate the applicable SOW and refund that portion of any fees received that correspond to such failure to perform.
- B. Disclaimer and Exclusions. EXCEPT AS EXPRESSLY STATED HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO PRODUCTS, SERVICES OR ANY OTHER ITEMS OR MATTERS ARISING HEREUNDER, Outseer (INCLUDING ITS SUPPLIERS) MAKES NO OTHER EXPRESS WARRANTIES, WRITTEN OR ORAL, AND DISCLAIMS ALL IMPLIED WARRANTIES. INSOFAR AS PERMITTED UNDER APPLICABLE LAW, ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.
8. LIMITATION OF LIABILITY.
- A. Limitations on Damages. The limitations, exclusions and disclaimers stated below apply to any and all disputes, claims, or controversies (whether in contract, tort, or otherwise) related to or arising out of this Agreement or any SOW or order ("**Dispute**"). The terms of this Section are agreed allocations of risk constituting part of the consideration for Outseer's sale of Professional Services to Customer and will apply even if there is a failure of the essential purpose of any limited remedy, and regardless whether a party has been advised of the possibility of the liabilities.
- (i) Limitation on Direct Damages. Except for Customer's obligations to pay for services, Customer's violation of the restrictions on use of Professional Services or Outseer's or its Affiliates' intellectual property rights, each party's total liability arising out of any Dispute or any matter under this Agreement, is limited to the amount Customer paid to Outseer during the twelve months before the date that the matter or Dispute arose for the Professional Services, or both that are the subject of the Dispute, but excluding amounts received as reimbursement of expenses or payment of taxes.
- (ii) No Indirect Damages. Except for Customer's payment obligations and violation of Outseer's or its Affiliates' intellectual property rights, neither Outseer nor Customer has liability to the other for special, consequential, exemplary, punitive, incidental, or indirect damages, or for lost profits, loss of revenue, loss of data, or loss of use, or procurement of substitute Professional Services.
- B. Regular Backups (for product installed on Customer controlled premises). Customer is solely responsible for its data. Customer must backup its data before Outseer performs any remedial, upgrade, or other work on Customer's systems. If applicable law prohibits exclusion of liability for lost data, then Outseer will only be liable for the cost of commercially reasonable and customary efforts to recover the lost data from Customer's last available backup.
- C. Limitation Period. Except as stated in this Section, all claims must be made within the period specified by applicable law. If the law allows the parties to specify a shorter period for bringing claims, or the law does not provide a time at all, then claims must be made within 12 months after the cause of action accrues.
9. TRADE COMPLIANCE. Customer's purchase of licenses for Software and access to related technology ("**Materials**") are for its own use, not for resale, export, re-export, or transfer. Customer is subject to and responsible for compliance

with the export control and economic sanctions laws of the United States and other applicable jurisdictions. Materials may not be used, sold, leased, exported, imported, re-exported, or transferred except with prior written authorization by Outseer, or its Affiliates and in compliance with such laws, including, without limitation, export licensing requirements, end-user, end-use, and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities, including but not limited to persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria, and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions. Customer understands and will comply with all applicable provisions of the U.S. Arms Export Control Act (AECA) and the U.S. International Traffic in Arms Regulations (ITAR) in Customer's receipt, use, transfer, modification, or disposal of Software. Customer acknowledges that any use, modification, or integration of the Software in or with defense articles or in the provision of defense services is not authorized by Outseer, and that Outseer will not provide warranty, repair, customer support, or other services in connection with such end uses. Customer certifies that any software, disk images, or other data provided to Outseer in connection with the purchase of the Software will not contain technical data, software, or technology controlled by the ITAR or AECA, and that if Customer later returns the Software to Outseer or grants Outseer access to the Software, Customer will not include or otherwise make available to Outseer any such technical data, software, or technology. Customer agrees to indemnify and hold Outseer harmless for any liability, loss, damage, cost, expense, or penalty arising from Customer's non-compliance with the AECA, ITAR, or the provisions of this Section.

10. NOTICES. Any notices permitted or required under this Agreement and/or any SOW entered into hereunder shall be in writing and shall be deemed given when delivered (i) in person; (ii) by overnight courier, upon written confirmation of receipt; (iii) by certified or registered mail, with proof of delivery; or (iv) by email, with confirmation of receipt. Notices to Outseer shall be sent to legalrequests@rsa.com, or at such other address or email address as provided to the other party in writing.
11. INDEPENDENT CONTRACTORS. The parties shall act as independent contractors for all purposes under this Agreement. Nothing contained herein shall be deemed to constitute either party as an agent or representative of the other party, or both parties as joint venturers or partners for any purpose. Neither party shall be responsible for the acts or omissions of the other party, and neither party will have authority to speak for, represent or obligate the other party in any way without the prior written approval of the other party.
12. MISCELLANEOUS. This Agreement and any SOW(s) entered into hereunder (i) shall constitute the complete statement of the agreement of the parties with regard to the subject matter hereof and (ii) may be modified only by a writing signed by authorized representatives of both parties. Except for the payment of fees, neither party shall be liable under this Agreement or any SOW because of a failure or delay in performing its obligations hereunder on account of any force majeure event, such as strikes, riots, insurrection, terrorism, fires, natural disasters, acts of God, war, governmental action, or any other cause which is beyond the reasonable control of such party. Outseer shall not be liable under this Agreement or any SOW because of failure or delay in performing its obligations hereunder on account of Customer's failure to provide timely access to facilities, space, power, documentation, networks, files, software, and Customer personnel that are reasonably necessary for Outseer to perform its obligations. Neither party may assign this Agreement to a separate legal entity, without the other party's written consent. Neither party shall unreasonably withhold or delay such consent; provided, however, that such written consent shall not be required if (i) either party assigns this Agreement to a separate entity in connection with a merger, acquisition, or sale of all or substantially all of its assets with or to such other separate entity, unless the surviving entity of the merger, acquisition, or sale of assets is a direct competitor of the other party. Nothing herein shall limit Outseer's right to assign its right to receive and collect payments hereunder. All terms of any purchase order or similar document provided by Customer, including but not limited to any pre-printed terms thereon and any terms that are inconsistent, add to, or conflict with this Agreement and/or an SOW, shall be null and void and of no legal force or effect. No waiver shall be deemed a waiver of any prior or subsequent default hereunder. If any part of this Agreement and/or any SOW entered into hereunder is held unenforceable, the validity of the remaining provisions shall not be affected.
13. GOVERNING LAW. This Agreement is governed by: (i) the laws of the Commonwealth of Massachusetts when Outseer means RSA Security LLC; (ii) the laws of the applicable country in which the applicable RSA affiliate is registered to do business when RSA means the local RSA affiliate, and (iii) the laws of Ireland when RSA means RSA Security & Risk Ireland Limited. In each case, the applicability of laws shall exclude any conflict of law rules. The U.N. Convention on Contracts for the International Sale of Goods shall not apply. In the event of a dispute concerning this Agreement, Customer consents to the sole and exclusive personal jurisdiction of the courts of competency in the location where RSA is domiciled.
14. TRAINING SERVICES. If Customer elects to receive Training Services provided by Outseer, the terms and conditions set forth in [Exhibit A](#) hereto shall apply.

EXHIBIT A

SUPPLEMENTAL TERMS AND CONDITIONS FOR OUTSEER TRAINING SERVICES

Unless Outseer agrees otherwise in writing, this Training Agreement governs Customer's receipt of the Training Services, except to the extent all or any portion of the Services are subject to a separate written agreement set forth in a quotation or Statement of work issued by Outseer. This Agreement may be superseded by any written agreement signed by both Customer and Outseer.

- (a) All materials provided by Outseer University for training services are the property of Outseer. Customer shall not duplicate such materials and may use the materials solely in conjunction with the training provided by Outseer hereunder. Use of Outseer On-Demand Training (e.g. Outseer On-Demand Learning, On-Demand Labs and On-Demand Classroom training) is limited to a single user. Outseer reserves all rights not expressly granted to Customer in the applicable governing agreement.
- (b) An order for training services is valid for a period of twelve (12) months from the date of purchase (the "Term") and may not be combined with other discounts, offers or promotions.
- (c) Customer will be invoiced for Outseer training at the time of order submission and expected to pay in accordance with Section 6 of the Agreement.
- (d) Training courses are non-cancelable and non-refundable. Changes to a course order will only be accepted in writing. If for any reason you wish to reschedule a training course your request must be received at least (10) business days prior to the start date for the scheduled training course for which you registered. Full tuition will be charged for rescheduling requests received less than (10) business days prior to the start date for the scheduled training course. The same rules apply to any virtually delivered training courses as well. Please note that once activated, any On-Demand training courses may not be substituted for another course, it will be viewed as delivered and consumed.
- (e) In the event Outseer cancels or reschedules a public open enrollment course, you will be notified of such cancellation or rescheduling by Outseer. Once notified you may request a refund or you may reschedule your attendance. In no event will Outseer be liable for nonrefundable travel arrangements in the event of a course cancellation or rescheduling.
- (f) At the end of the applicable Term, any pre-paid, remaining unused training shall expire and shall be forfeited. No refunds shall be provided based on any remaining, pre-paid unused training. All classes must be registered and attended during the Term; provided, however, if Outseer cancels and reschedules a class past the "expiration date" of the Term, you may attend the next scheduled training class.
- (g) For Private Classroom (on-site courses), the Customer shall provide a classroom which will allow sufficient space to accommodate the expected number of students (limit of ten (10) students per class), will support connection to the Outseer University virtual lab environment (if applicable), table space for a computer for each student, a blackboard or whiteboard for instructor use, and a projector for presentations and demonstrations. If space such as a conference room is being utilized as a classroom, it should be located in an area that affords minimal external distractions and noise. A proximity to services such as rest rooms and coffee/food service is also helpful; students tend to maximize their learning experience in a comfortable environment.
- (h) Travel will require written approval by Customer and will be invoiced at actual cost.