

REDSEAL INC.

REDSEAL STRATUS PLATFORM SUBSCRIPTION AGREEMENT

This RedSeal Stratus Platform Subscription Agreement is between **RedSeal, Inc.**, a Delaware corporation with its principal place of business at 1300 El Camino Real, Suite 300, Menlo Park, CA 94025 ("**RedSeal**"), and Customer. The Parties agree as follows:

1. DEFINITIONS

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity. Customer, together with any ordering Affiliate, shall be jointly and severally liable for all obligations set forth in this Agreement.

"Agreement" means this Master Subscription Agreement and any exhibits, schedules and addenda hereto.

"Components" means compute instances.

"Customer" means the customer designated in the Order Form and its Affiliates.

"Customer Data" means electronic data and information submitted by or for Customer to the Services.

"Documentation" means the online user guides, documentation, and help and training materials for the Services, as updated from time to time, accessible within the RedSeal Stratus platform, or other websites designated by RedSeal.

"Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"Non-RedSeal Applications" means online applications and services and or software products that are provided by entities or individuals other than RedSeal, and that interoperate with the Services.

"Order Form" means an ordering document specifying the Services to be provided hereunder that is entered into between Customer and RedSeal including any addenda and supplements thereto. By entering into an Order Form, Customer agrees to be bound by the terms of this Agreement. Order Forms may be submitted directly to RedSeal or via a RedSeal-approved reseller or distributor.

"Professional Services" means those professional services purchased by Customer as more fully described in a Statement of Work and subject to the terms set forth on *Exhibit A (Professional Services for Services Implementation)* attached hereto and made a part hereof.

"Services" means the RedSeal Stratus Platform software services that are ordered by Customer under an Order Form and made available online by RedSeal.

"Support" means RedSeal customer support for the Services, as identified in the Support Schedule on Exhibit B.

"System" means the technology, computers, communications network, equipment, storage capacity, back up services, and other hardware, software, and services that RedSeal operates to provide the Service.

"User" means an individual who is authorized by Customer to use a Service, for whom Customer has ordered the Service, and to whom Customer (or RedSeal at Customer's request) has supplied a user identification and password. Users may include, for example, employees, consultants, contractors and agents of Customer.

REDSEAL RESPONSIBILITIES

- 1.1 Provision of Services.** RedSeal will (a) make the Services available to Customer pursuant to this Agreement and the applicable Order Forms, (b) provide Support for the Services to Customer at no additional charge, and (c) use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which RedSeal shall give at least 8 hours electronic notice to Customer, and (ii) any unavailability caused by circumstances beyond RedSeal's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving RedSeal employees), Internet service provider failure or delay, Non-RedSeal Application, or denial-of-service attack.
- 1.2 Protection of Customer Data.** RedSeal employs reasonable administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by RedSeal personnel except (a) to provide the Services and Support and prevent or address service or technical problems, (b) as compelled by law in accordance with the "Confidentiality: Compelled Disclosure" section below, or (c) as expressly permitted in writing by Customer.
- 1.3 Data Privacy.** RedSeal may use certain information collected through the RedSeal Stratus Platform as set forth in our Privacy Policy, which is incorporated by reference to this Agreement. Through Customer's use of the Services, Customer consents to the collection, use and disclosure (as set forth in the Privacy Policy at <https://www.redseal.net/privacy-policy-redseal/>) of information that RedSeal and its service providers collect from Customer.

- 1.4 RedSeal Personnel.** RedSeal will be responsible for the performance of its personnel (including its employees and contractors) and their compliance with RedSeal's obligations under this Agreement, except as otherwise specified herein.
- 1.5 Analytics.** RedSeal may track and analyze usage of the Services to assist Customer, and to maintain the security of and improve the Services. RedSeal may compile aggregated de-identified results or metrics from all or part of Customer's use of the Services, provided that such aggregated results will not contain information that could be used to individually identify Customer or its Users. RedSeal shall use such aggregated data in non-personally identifiable form for the purposes of improving the Services, for evaluating global trends for product development and marketing, for optimizing its performance or metrics, and as may be required for accounting or audit requirements, or by law. Such aggregated de-identified results shall be RedSeal Data. RedSeal may share with third parties such anonymous, aggregated usage data that does not enable identification of any entity or individual.

2. USE OF SERVICES

- 2.1 Subscriptions.** Unless otherwise provided in the applicable Order Form, (a) Services are purchased as subscriptions corresponding to a relevant subscription tier based on the number of Components ordered.
- 2.2 General Usage and Usage Limits.** Services are subject to tiered usage limits referenced in Order Forms. Unless otherwise specified, an Order Form refers to a certain number of maximum Components on a tiered basis. If Customer exceeds the maximum Components specified in the Order Form by more than 10% for 60 continuous days during a subscription period, RedSeal will so notify Customer and will work with Customer to bring Customer's usage into conformity within the limit. If, notwithstanding RedSeal's efforts, Customer is unable or unwilling to abide by the contractual usage limit as specified on the Order Form within 30 days thereafter, Customer will promptly execute a new Order Form for the usage tier related to the actual usage of Services. The Order Form shall cover the period from the date Customer was notified of excess usage until the end of the current Term. Customer's account may be subject to suspension if usage limits continue to be exceeded for 90 continuous days without execution of a new Order Form to reflect the higher usage tier. In the event Customer does not issue an Order Form, and Service is not suspended, RedSeal reserves the right, at each anniversary date during the subscription period, to retroactively charge for the higher tier of usage indicated by actual usage, and renew the upcoming Term at the new, higher rate. Customer will promptly pay any invoice(s) for excess usage in accordance with the payment terms below.
- 2.3 Customer Responsibilities.** Customer will (a) be responsible for its and its Users' compliance with this Agreement and Order Forms, (b) be responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services, and notify RedSeal promptly of any such unauthorized access or use, and (d) use Services only in accordance with the Documentation and all applicable laws and government regulations. Customer will reasonably cooperate with any RedSeal audit of Customer's use of the Services.
- 2.4 User Restrictions.** Customer is limited to a maximum of twenty-five (25) Users at one time. A User's login may not be shared with any other individual; however, a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Services. Customer will not (a) (unless Customer is an authorized reseller or distributor) make the Services available to, or use the Services for the benefit of, anyone other than Customer or Users or sell, resell, license, sublicense, distribute, rent or lease the Services, or include the Services in a service bureau or outsourcing offering, (b) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (c) use the Services to store or transmit Malicious Code, (d) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (e) attempt to gain unauthorized access to the Services or its related systems or networks, (f) permit direct or indirect access to or use of the Services in a way that circumvents a contractual usage limit, or use the Services to access or use any RedSeal intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (g) copy the Services or any part, feature, function or user interface thereof, (h) frame or mirror any part of the Services, (i) access the Services in order to build a competitive product or service or to benchmark with a non-RedSeal product or service, or (j) reverse engineer the Services. If Customer uses the Services in a way that breaches these usage restrictions and threatens the security, integrity or availability of the Services, RedSeal may immediately suspend the Service; however, RedSeal will use reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy the breach before any such suspension.

3. FEES AND PAYMENT

- 3.1 Fees.** Customer will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on the tier level of Services purchased, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the tier level purchased cannot be decreased during the relevant subscription term.
- 3.2 Invoicing and Payment.** Fees will be invoiced annually in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 30 days from the invoice date, and invoices may be sent electronically. Customer is responsible for providing complete and accurate billing and contact information to RedSeal and notifying RedSeal of any changes to such information.
- 3.3 Overdue Charges.** If any invoiced amount is not received by RedSeal by the due date, then without limiting RedSeal's rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

- 3.4 Suspension of Services.** If any charge owing by Customer is 30 days or more overdue, RedSeal may, without limiting its other rights and remedies, suspend the Services and Support until such amounts are paid in full, provided RedSeal has given Customer at least 10 days' prior notice that its account is overdue in accordance with the "Notices" section below.
- 3.5 Payment Disputes.** RedSeal will not exercise its rights under the "Overdue Charges" or "Suspension of Service" section above if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 3.6 Taxes.** RedSeal's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If RedSeal has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, RedSeal will invoice Customer and Customer will pay that amount unless Customer provides RedSeal with a valid tax exemption certificate authorized by the appropriate taxing authority. RedSeal will calculate applicable Taxes based on the address where Customer primarily uses the Services as specified in the relevant Order Form. Customer will be responsible for self-assessing and paying any additional Taxes arising from its use of the Services and/or Support at a different address. Customer will promptly notify RedSeal of any changes to a Customer address specified in an Order Form. Should any payment for Services be subject to withholding tax by any government, Customer will reimburse RedSeal for such withholding tax. For clarity, RedSeal is solely responsible for taxes assessable against it based on its income (other than such withholding taxes), property and employees.
- 3.7 Future Functionality.** Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by RedSeal regarding future functionality or features.

4. PROPRIETARY RIGHTS AND LICENSES

- 4.1 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, RedSeal and its licensors reserve all of their right, title and interest in and to the Services and Support, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.
- 4.2 License by Customer to Host Customer Data.** Customer grants RedSeal, its Affiliates and its hosting providers, a worldwide, limited-term license to host, copy, transmit and display Customer Data as necessary for RedSeal to provide the Services and Support in accordance with this Agreement and Order Forms. Subject to the limited licenses granted herein, RedSeal acquires no right, title or interest from Customer or its licensors under this Agreement in or to any Customer Data, Non-RedSeal intellectual property or program code.
- 4.3 License by Customer to Use Feedback.** Customer grants to RedSeal and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of the Services.
- 4.4 Federal Government End Use Provisions.** RedSeal provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with RedSeal to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

5. CONFIDENTIALITY

- 5.1 Definition of Confidential Information.** "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer includes Customer Data; Confidential Information of RedSeal includes the Services and the System; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party, as demonstrated by contemporaneous written records.
- 5.2 Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants

without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliates, legal counsel or accountants will remain responsible for such Affiliates, legal counsel's or accountant's compliance with this "Confidentiality" section.

- 5.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.
- 5.4 Injunctive Relief.** It is understood and agreed that notwithstanding any other provision of this Agreement, a breach by either Party of Section 5 of this Agreement may cause the other Party irreparable damage for which recovery of money damages might be inadequate, and that the other Party shall therefore be entitled to seek timely injunctive relief, without posting bond, to protect such Party's rights under this Agreement in addition to any and all remedies available at law.

6. REPRESENTATION, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

- 6.1 Representation.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.
- 6.2 RedSeal Warranties.** RedSeal warrants that (a) the Services will perform materially in accordance with the applicable Documentation, (b) RedSeal will not materially decrease the functionality of the Services during a subscription term, and (c) RedSeal will not materially decrease the overall security of the Services during a subscription term. For any breach of an above warranty, Customer's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections below.
- 6.3 Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. REDSEAL DOES NOT GUARANTEE THAT SERVICES WILL BE ERROR-FREE OR WILL MEET CUSTOMER'S REQUIREMENTS.

7. MUTUAL INDEMNIFICATION

- 7.1 Indemnification by REDSEAL.** RedSeal will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the use of the Services in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights (a "**Claim Against Customer**"), and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer in settlement of, a Claim Against Customer, provided Customer (a) promptly gives RedSeal written notice of the Claim Against Customer, (b) gives RedSeal sole control of the defense and settlement of the Claim Against Customer (except that RedSeal may not settle any Claim Against Customer unless it unconditionally releases Customer of all liability), and (c) gives RedSeal all reasonable assistance, at RedSeal's expense. If RedSeal receives information about an infringement or misappropriation claim related to the Services, RedSeal may in its discretion and at no cost to Customer (i) modify the Services so that they no longer infringe or misappropriate, without breaching RedSeal's warranties under "RedSeal Warranties" above, (ii) obtain a license for Customer's continued use of the Services in accordance with this Agreement, or (iii) terminate Customer's subscriptions for the Services upon 30 days' written notice and refund Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that the Services are the basis of the Claim Against Customer, or (2) a Claim Against Customer arises from the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by RedSeal, if the Services or use thereof would not infringe without such combination.
- 7.2 Indemnification by Customer.** Customer will defend RedSeal against any claim, demand, suit or proceeding made or brought against RedSeal by a third party alleging that the Customer Data, or Customer's use of the Services in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "**Claim Against RedSeal**"), and will indemnify RedSeal from any damages, attorney fees and costs finally awarded against RedSeal as a result of, or for any amounts paid by RedSeal in settlement of, a Claim Against RedSeal; provided RedSeal (a) promptly gives Customer written notice of the Claim Against RedSeal, (b) gives Customer sole control of the defense and settlement of the Claim Against RedSeal (except that Customer may not settle any Claim Against RedSeal unless it unconditionally releases RedSeal of all liability), and (c) gives Customer all reasonable assistance, at Customer's expense. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that Customer Data or Customer's use of the Services in breach of this Agreement is the basis of the Claim Against RedSeal, or (2) a Claim Against RedSeal arises from the use or combination of Customer Data with software, hardware, data, or processes not provided by Customer, if the Customer Data or use thereof would not infringe without such combination.
- 7.3 Exclusive Remedy.** This "Mutual Indemnification" section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this section.

8. LIMITATION OF LIABILITY

- 8.1 Limitation of Liability.** NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.
- 8.2 Exclusions.** IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES, GOODWILL OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

9. TERM AND TERMINATION

- 9.1 Term of Agreement.** This Agreement commences on the Effective Date and continues until the 30th day after all subscriptions hereunder have expired or have been terminated.
- 9.2 Term of Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise set forth below or in an Order Form, Order Forms and all subscriptions thereunder will automatically renew for additional periods of one year, without entry into a new Order Form, unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. The per-Component pricing during any automatic renewal term will be the same as that during the immediately prior term unless RedSeal has given Customer written notice of a pricing increase generally applicable to RedSeal Stratus platform customers at least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter. Any such pricing increase will not exceed 10% of the pricing for the applicable Service in the immediately prior subscription term unless the pricing in the prior term was designated in the relevant Order Form as promotional or one-time. If Customer usage exceeded the originally agreed upon subscription tier in the immediately prior term, the renewal term pricing will reflect that higher subscription tier, plus any annual pricing increase generally applicable to RedSeal Stratus platform customers.
- 9.3 Non-Renewal and Reinstatement of Subscriptions.** If Customer provides timely notice of non-renewal, the Services will expire and Customer's access to the Services will cease on the subscription end date unless a new Order Form for the Services is entered into on or before the subscription end date. If any Service subscriptions are not renewed by the subscription end date (other than due to RedSeal's notice of non-renewal under the "Term of Subscriptions" section above), and RedSeal and Customer enter into a new Order Form for such Services during the 60-day period after the subscription end date, Customer will be charged an additional reinstatement fee equal to a pro rata portion of the total annual renewal subscription for each day that has elapsed since the subscription end date.
- 9.4 Termination for Cause.** A Party may terminate this Agreement if the other Party (a) materially breaches this Agreement and fails to cure the breach within 30 days after written notice by the non-breaching Party detailing the breach, or (b) becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, and such petition or proceeding is not dismissed within 60 days.
- 9.5 Refund or Payment upon Termination.** If Customer terminates this Agreement in accordance with Section 9.4, RedSeal will refund Customer any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by RedSeal in accordance with the "Termination" section above, Customer will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve Customer of its obligation to pay any fees payable to RedSeal for the period prior to the effective date of termination.
- 9.6 Customer Data Portability and Deletion.** Upon request by Customer made within 60 days after the effective date of termination or expiration of this Agreement, or within 30 days after any suspension under the second sentence of the "Suspension of Services" Section 3.4, above, whichever is earlier, RedSeal will make the Customer Data available to Customer for export or download. After such 60-day period, RedSeal will have no obligation to maintain or provide any Customer Data and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited.
- 9.7 Surviving Provisions.** The sections titled "Fees and Payment," "Proprietary Rights," "Confidentiality," "Disclaimers," "Mutual Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Customer Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.

10. GENERAL PROVISIONS

- 10.1 Export Compliance.** The Services, other RedSeal technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. RedSeal and Customer each represents that it is not named on any U.S. government denied-party list. Customer will not permit any User to access or use the Service in a U.S.-embargoed country (currently Crimea, Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. or other applicable export law or regulation.

- 10.2 Anti-Corruption.** Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from a RedSeal employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, it will use reasonable efforts to promptly notify RedSeal.
- 10.3 Entire Agreement and Order of Precedence.** This Agreement and the applicable Order Form(s) constitute the entire agreement between RedSeal and Customer regarding the provision and use of Services and Support and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning their subject matter. No modification, amendment, or waiver of any provision of this Agreement or any Order Form will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The Parties agree that any term or condition stated in a Customer purchase order or in any other Customer order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) any exhibit, schedule or addendum to this Agreement, (3) the body of this Agreement, and (4) the Documentation.
- 10.4 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. Neither Party shall have the right to obligate or bind the other Party in any manner whatsoever, and nothing herein shall give or is intended to give any rights of any kind to third persons.
- 10.5 Notices.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) confirmed delivery by courier service, or (d), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the day of sending by email. Notices to RedSeal will be addressed to the attention of its legal department at 1300 El Camino Real, Suite 300, Menlo Park, CA 94025, and email finance@redseal.net for Legal Notice or all other notices. Billing-related notices to Customer will be addressed to the relevant billing contact designated by Customer, and Legal Notices to Customer will be addressed to Customer and be clearly identifiable as Legal Notices. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer.
- 10.6 Waiver.** No failure or delay by either Party in exercising any right hereunder will constitute a waiver of that right.
- 10.7 Severability.** If any provision of this Agreement or any Order Form is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement or the applicable Order Form shall remain legal, valid and binding.
- 10.8 Force Majeure.** Except for the obligation to make payments, neither Party shall be responsible for any delay in its performance due to causes beyond its reasonable control.
- 10.9 Assignment.** Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other Party's prior written consent (not to be unreasonably withheld); provided, however, either Party may assign this Agreement in its entirety, together with all Order Forms, without the other Party's consent to its Affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. This Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
- 10.10 Governing Law.** This Agreement, and any disputes arising out of or related hereto, will be governed exclusively by the laws of the State of California, without regard to its conflicts of laws rules. The United Nations Convention on the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) are specifically excluded. The courts within the Northern District of California shall have jurisdiction to adjudicate any dispute arising out of this Agreement. Each Party hereto expressly consents to the personal jurisdiction of, and venue in, such courts in any action to enforce this Agreement. The prevailing Party shall be entitled to seek recovery of all court costs and reasonable attorneys' fees incurred, including such costs and attorneys' fees incurred in enforcing and collecting any judgment.

EXHIBIT A

PROFESSIONAL SERVICES FOR SERVICES IMPLEMENTATION

1. PROFESSIONAL SERVICES PROVISIONS.

- 1.1 Description of Professional Services.** Beginning on or about the start date set forth in the applicable Statement of Work, RedSeal will provide the Professional Services to Customer as described in such Statement of Work.
- 1.2 Customer's Obligations.** Customer agrees to provide assistance, cooperation, information, equipment, data, a suitable work environment and resources reasonably necessary to enable RedSeal to perform the Professional Services. Customer acknowledges that RedSeal's ability to provide Professional Services as set forth herein may be affected if Customer does not provide such reasonable assistance.
- 1.3 Project Management.** Each Party shall designate a Project Manager who shall work together with the other Party's Project Manager to facilitate the efficient delivery of the Professional Services.
- 1.4 Change Order.** In order to change the description of Professional Services under a Statement of Work, Customer will submit a written request to RedSeal specifying the proposed changes in detail and RedSeal will provide an estimate of the charges and anticipated changes in the delivery schedule that will result from the proposed change. RedSeal will continue performing the Professional Services in accordance with this *Exhibit A* and the applicable Statement of Work until the Parties agree in writing on the change in scope of work, scheduling, and fees.
- 1.5 Intellectual Property.** Neither Party, by virtue of this Professional Services Exhibit A, shall gain any rights of ownership in copyrights, patents or other intellectual property of the other party. Exclusive of the intellectual property provided by Customer, RedSeal shall own all title right and interest (including any copyrights, patents, trade secrets or other intellectual property rights) in and to all tangible materials delivered as well as all other results of the Professional Services, including any and all derivatives, enhancements or modifications to the foregoing. Upon full payment to RedSeal of all sums due for the Professional Services, Customer is granted a non-exclusive, non-transferable license to use for internal purposes only, any tangible material (including without limitation, all reports, templates and dashboards) delivered by RedSeal or other result of the Professional Services provided to RedSeal hereunder.
- 1.6 Warranty.** RedSeal warrants for 90 days from the performance of any Professional Services by RedSeal that such Professional Services shall be performed in a professional and workmanlike manner consistent with generally accepted industry standards. Customer must report in writing any breach of this warranty to RedSeal during the relevant warranty period, and Customer's exclusive remedy and RedSeal's entire liability for any breach of such warranty shall be the re-performance of the nonconforming Professional Services, or if RedSeal is unable to perform the Professional Services as warranted, Customer shall be entitled to a refund of the fees paid to RedSeal for the nonconforming Professional Services. RedSeal shall only have liability for such breaches of warranty if Customer provides written notice of the breach to RedSeal within ninety (90) days of the performance of the applicable services. THE WARRANTY AND REMEDY IN THE SECTION IS IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, USEFULNESS OR TIMELINESS.

2. PAYMENT PROVISIONS.

- 2.1 Fees.** Professional Services shall be provided under this *Exhibit A* at the rates set forth in the applicable Statement of Work.
- 2.2 Payment Type.** The Professional Services, if requested, are provided either on a fixed fee or on a time and materials ("*T&M*") basis as described in the applicable Statement of Work. For fixed fee engagements, Customer shall pay RedSeal the fees stated in the applicable Statement of Work plus all pre-approved travel and living expenses ("*Expenses*"). For T&M engagements, Customer shall pay RedSeal for time spent performing such Professional Services at RedSeal's standard consulting rates, materials, and all Expenses associated with RedSeal personnel traveling to Customer's site.

3. MISCELLANEOUS.

- 3.1 Independent Contractor.** Both Parties agree that RedSeal is an independent contractor and, as such, neither RedSeal nor its personnel shall be considered employee(s) of Customer. As a consequence, Customer is neither liable nor responsible for withholding or deducting any sums for federal or state income taxes, social security, health, workers compensation, and disability insurance coverage, pension or retirement plan, or the like from any Fees due under the Statement of Work.
- 3.2 Non-Solicitation.** During the term of this Agreement and for a period of one year thereafter, Customer agrees that it will not solicit for hire, on behalf of Customer or any other organization, any employee of RedSeal, unless Customer has first obtained RedSeal's prior written consent. The foregoing will not prohibit Customer from employing an individual who applies for a position in response to an internal posting, employment advertisement, or other general solicitation of employment, or from hiring individuals that are no longer employed by RedSeal.
- 3.3 General Skills and Knowledge.** RedSeal shall not be prohibited or enjoined at any time by Customer from utilizing any "skills or knowledge of a general nature" acquired during the course of performing the Professional Services purchased by Customer. For

the purposes of this Agreement, “skills or knowledge of a general nature” shall include, without limitation, anything that might reasonably be learned or acquired in connection with similar work performed for another Customer but in no event shall they include any of Customer’s Confidential Information.

- 3.4 Background Checks.** Upon Customer’s request, criminal background checks will be conducted by RedSeal for each employee performing Professional Services and shall include the review of public records in all of the individual’s countries of residence and employment for the last seven (7) years or the number of years that are allowed under applicable law.
- 3.5 Consent to Subcontracting.** No Professional Services to be performed under this Exhibit A may be subcontracted to, or performed on behalf of RedSeal, by any third party without Customer’s prior written consent. Any approved subcontractor shall be required to comply with all of the applicable provisions of the Agreement and this Exhibit A.

EXHIBIT B

SUPPORT SCHEDULE

This Customer Support Schedule sets forth the terms, conditions, and procedures under which maintenance and technical support ("**Support**") is offered for the Services during the Term.

1. GENERAL.

Scope. Support consists of: (a) telephone and email support; (b) correction of errors to keep the Services in conformance with the user Documentation included in the Services; and (c) updated versions of the Services provided by RedSeal to its general customer base of subscribers at no additional charge. Support does not include: (i) setup, installation, training or configuration of hardware and software required for the Customer to access the Services; or (ii) consultation, error correction, or research with respect to Customer Data or Customer-created documents and information.

2. CUSTOMER SUPPORT.

Technical Support. Customer will have access to RedSeal's technical support personnel ("**Technical Support**") via telephone or e-mail. In addition to the support obligations listed above, RedSeal will provide support twenty four (24) hours a day, seven (7) days a week: phone or email support for Severity 1 level issues.

3. SEVERITY LEVELS AND RESPONSE.

Technical Support will prioritize problems/requests according to the severity levels set forth below. RedSeal will use commercially reasonable efforts to respond according to the Response Specifications set forth below with respect to the Severity Level assigned to the problem:

SEVERITY	INITIAL RESPONSE TIME
Severity 1 Down, no workaround	Contact within 1 hour
Severity 2 Degraded capabilities, no/impractical workaround	Contact within 4 hours
Severity 3 Degraded, workaround available	Contact within 8 hours
Severity 4 Question or request for enhancement	Contact within 12 hours

The Severity Level of the problems reported by Customer will be reasonably determined by RedSeal. RedSeal will resolve each reported error or issue with the Services by using commercially reasonable efforts to provide: (i) a patch or fix as necessary; or (ii) a reasonable workaround for the error or issue; or, if either (i) or (ii) are not reasonably practicable, a specific action plan regarding how RedSeal intends to address the reported error or issue and an estimate on how long it may take to correct or workaround the error or issue. Customer agrees to use commercially reasonable efforts to assist and provide information to RedSeal as required for resolving errors or issues with the Services reported by Customer.

5. REDSEAL ISSUES.

Support covers any issue or problem that is the result of a verifiable, replicable error in the Services. RedSeal will use commercially reasonable efforts to verify and replicate the issue or problem reported by Customer. If Technical Support reasonably determines that Customer's issue or problem is not caused by RedSeal or its systems, equipment, or software, nor constitutes a material failure by the Services to function in accordance with the Documentation included in the Services, RedSeal is not obligated to provide support under this Agreement. Nevertheless, RedSeal will, if possible, offer suggestions as to how Customer can remedy the problem and RedSeal may offer to provide out of scope professional services as described in Section 6 below.

6. ADDITIONAL SUPPORT.

Technical Support may also determine that Customer's request is a request for "**Additional Support**." Additional Support is any assistance not covered in Section 5 above. Examples of Additional Support include substantive questions regarding data or results, requests for Services configuration, specialized training regarding use of the Services, custom documentation, and consulting. If RedSeal believes that it can appropriately and effectively provide the requested Additional Support, it will offer to do so by providing Professional Services pursuant to a Statement of Work, per Exhibit A above.

7. CUSTOMER'S RESPONSIBILITIES.

Customer's Representative will initiate all requests for Support. The Representative must be trained, qualified and authorized to communicate all necessary information, perform diagnostic testing under the direction of the RedSeal service representative and be available during the performance of any Support if required.