



**REDSEAL STRATUS
TRIAL SERVICES AGREEMENT**

THIS PRODUCT CONTAINS COMPUTER PROGRAMS AND OTHER PROPRIETARY MATERIAL AND INFORMATION, THE USE OF WHICH IS SUBJECT TO AND EXPRESSLY CONDITIONED UPON ACCEPTANCE OF THIS TRIAL SERVICES AGREEMENT (THE "AGREEMENT").

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 AND HARDWARE FOR ITS INTERNAL PRODUCTIVE USE AND NOT FOR OUTRIGHT RESALE) (THE "CUSTOMER") AND REDSEAL, INC., A DELAWARE CORPORATION WITH ITS PRINCIPAL PLACE OF BUSINESS AT 1300 EL CAMINO REAL, SUITE 300, MENLO PARK, CA 94025 ("REDSEAL").

Unless RedSeal agrees otherwise in writing, this Agreement governs Customer's use and evaluation of the Trial Services. By clicking on the "Agree" or "Accept" or similar button at the end of this Agreement, or proceeding with the installation, downloading, use or reproduction of this System, or signing a Schedule that references this Agreement, or authorizing any other person to do so, you are representing to RedSeal that you are (i) authorized to bind the Customer; and (ii) agreeing on behalf of the Customer that the terms of this Agreement shall govern the relationship of the parties with regard to the subject matter in this Agreement and are waiving any rights, to the maximum extent permitted by applicable law, to any claim anywhere in the world concerning the enforceability or validity of this Agreement.

If you do not have authority to agree to the terms of this Agreement on behalf of the Customer, or do not accept the terms of this Agreement on behalf of the Customer, click on the "Cancel" or "Decline" or other similar button at the end of this Agreement and/or immediately cease any further attempt to install, download or use the System for any purpose, and remove any partial or full copies made from the System.

RECITALS

- A. RedSeal has a hosted software-as-a-service called RedSeal Stratus (the "Trial Services").
- B. RedSeal desires the Customer use and evaluate the Trial Services, subject to and in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

1. DEFINITIONS

- 1.1 "**Agreement**" means this RedSeal Trial Services Agreement, including any subsequent updated terms and conditions or amendments to the agreement, as well as any associated Documentation.
- 1.2 "**Components**" means compute instances.
- 1.3 "**Customer**" means the customer to whom the Trial Services are provided or who is designated in the Order Form as Customer.
- 1.4 "**Customer Data**" means electronic data and information submitted by or for Customer to the Trial Services.
- 1.5 "**Documentation**" means the online user guides, documentation, and help and training materials for the Trial Services, as updated from time to time, accessible within the RedSeal Stratus platform, or other websites designated by RedSeal.
- 1.6 "**FedRAMP**" means the Federal Risk and Authorization Management Program established by the U.S. Federal Government, a government-wide program that provides a standardized approach to security assessment.
- 1.7 "**Malicious Code**" means code, files, scripts, agents, or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.
- 1.8 "**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 Trial Services.
- 1.9 "**Trial Services**" means the limited range of services that RedSeal makes available to a Customer free of charge, up to a limited number of compute instances under this Agreement, including, without limitation, inventory, mapping and certain compliance features.
- 1.10 "**User**" means an individual who is authorized by Customer to use the Trial Services, for whom Customer has ordered the Trial Services, 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.

2. PROVISION AND USE OF THE TRIAL SERVICES

- 2.1 **Trial Services.** RedSeal provides access to the Trial Services on a limited basis for evaluation purposes. Subject to Customer's compliance with the terms of this Agreement, RedSeal grants to Customer a limited, revocable, non-exclusive, non-transferable, and non-sublicensable worldwide right to access the Trial Services, solely for the purposes of testing and evaluation, and not for general production use. Customer has no right to license, distribute or otherwise transfer the Trial Services or any rights therein. The Trial Services will at all times remain the property of RedSeal and Customer shall have no right, title or interest in or to the Trial Services except as expressly set forth herein.
- 2.2 **Trial Services Feedback.** Customer shall (a) test the services and cooperate with RedSeal in evaluating the Trial Services; (b) work with RedSeal to identify and resolve any errors, problems or defects in the Trial Services discovered by Customer; and (c) provide written feedback concerning the Trial Services including, without limitation, feedback identifying potential errors and suggested improvements. All feedback, comments, and suggestions for improvements that Customer provides to RedSeal hereunder, are referred to collectively as "Customer Feedback".
- 2.3 **No Warranty for Trial Services.** USE OF THE REDSEAL STRATUS PLATFORM AND TRIAL SERVICES SHALL BE PROVIDED "AS-IS" WITHOUT ANY WARRANTY OR INDEMNITY FROM REDSEAL OF ANY KIND. REDSEAL DOES NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (A) CUSTOMER'S USE OF THE TRIAL SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR (B) CUSTOMER'S USE OF THE TRIAL SERVICES WILL BE

UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 8 (LIMITATION OF LIABILITY), CUSTOMER SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO REDSEAL FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE TRIAL SERVICES, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

3. REDSEAL RESPONSIBILITIES

- 3.1 **Provision of Trial Services.** RedSeal will (a) make the Trial Services available to Customer pursuant to this Agreement. RedSeal provides technical or other support for the Trial Services via email at support@redseal.net.
- 3.2 **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.
- 3.3 **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.
- 3.4 **Analytics.** RedSeal may track and analyze usage of the Trial Services 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 Trial 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 Trial 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.

4. USE OF SERVICES

- 4.1 **General Usage and Usage Limits.** The Trial Services are subject to a contractual usage limit of up to 500 Instances. If Customer exceeds this maximum number of Components, RedSeal will so notify Customer, and will work with Customer to convert to a paid subscription to the RedSeal Stratus Platform under a separate agreement, upon termination of this Agreement. The Trial Services offers features limited to inventory, mapping, exposure, reporting and compliance. Customer may access only these limited features.
- 4.2 **Responsibilities.** Customer will (a) be responsible for its and its Users' compliance with this Agreement, (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 the Trial Services, and notify RedSeal promptly of any such unauthorized access or use, and (d) use the Trial 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 Trial Services. RedSeal may, at any time during the term of this Agreement, upon reasonable written notice to Customer and during normal weekday business hours, audit Customer's use of the Trial Services at Customer's premises, as reasonably necessary to confirm that Customer is using the Trial Services in accordance with the terms and conditions of this Agreement. RedSeal may use a third-party organization reasonably acceptable to Customer to assist RedSeal in such audit. Customer will reasonably cooperate with RedSeal in each such audit and make available to RedSeal all information and materials reasonably required to conduct such an audit.
- 4.3 **User Restrictions.** Customer is limited to a maximum of ten (10) Users at one time. A User's login may not be shared with any other individual. Customer will not (a) make the Trial Services available to, or use the Trial Services for the benefit of, anyone other than Customer or Users or sell, resell, license, sublicense, distribute, rent or lease the Trial Services, or include the Trial Services in a service bureau or outsourcing offering, (b) use the Trial 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 Trial Services to store or transmit Malicious Code, (d) interfere with or disrupt the integrity or performance of the Trial Services or third-party data contained therein, (e) attempt to gain unauthorized access to other RedSeal services, or RedSeal's related systems or networks, (f) permit direct or indirect access to or use of the Trial Services in a way that circumvents a contractual usage limit, or use the Trial Services to access or use any RedSeal intellectual property except as permitted under this Agreement, (g) copy the Trial Services or any part, feature, function or user interface thereof, (h) frame or mirror any part of the Trial Services, (i) access the Trial 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 Trial Services. If Customer uses the Trial Services in a way that breaches these usage restrictions and threatens the security, integrity or availability of the Trial Services, RedSeal may immediately suspend the Trial Services.

5. TERM AND PROVISION OF TRIAL SERVICES.

- 5.1 **Term of Agreement.** The term of this Agreement will be for a period of ninety (90) days from the date Customer's account is active, unless sooner terminated as provided below. Customer shall have the option to renew this Agreement for an additional ninety (90) day period upon the agreement of both parties. All Sections survive any termination of this Agreement.
- 5.2 **Termination of Services.** Notwithstanding Section 5.1 above, if Customer uses the Trial Services in a way that breaches usage restrictions and threatens the security, integrity or availability of the Trial Services or RedSeal Stratus Platform, or infringes or otherwise violates RedSeal's intellectual property rights, RedSeal may immediately terminate Customer's access to the Trial Services. Either party may terminate this Agreement at any time, without cause, upon ten (10) days' written notice to the other party.
- 5.3 **Taxes.** RedSeal's provision of the Trial Services does 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"). For the avoidance of doubt, Customer is responsible for paying all taxes associated with use of the Trial Services hereunder and any withholding tax or any other applicable tax is to be paid by Customer.

6. PROPRIETARY RIGHTS AND LICENSES

- 6.1 **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 Trial Services, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.
- 6.2 **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 Trial Services in accordance with this Agreement.
- 6.3 **License by Customer to Use Customer 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. All Customer Feedback will be the sole and exclusive property of RedSeal. The Customer receiving Trial Services hereby irrevocably transfers and assigns to RedSeal and its affiliates all of Customer's right, title, and interest in and to all Customer Feedback, including all worldwide patent rights (including patent applications and disclosures), copyright rights, trade secret rights, and other intellectual property rights (collectively, "Intellectual Property Rights") therein. Customer will not earn or acquire any rights or licenses in the Trial Services or in any RedSeal Intellectual Property Rights on account of this Agreement or Customer's performance under this Agreement.
- 6.4 **Federal Government End Use Provisions.** RedSeal provides the Trial 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. The Trial Services are currently not FedRAMP- compliant.

7. CONFIDENTIALITY

- 7.1 **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.
- 7.2 **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.
- 7.3 **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.
- 7.4 **Injunctive Relief.** It is understood and agreed that notwithstanding any other provision of this Agreement, a breach by either party of this Section 7 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.

8. REPRESENTATION, DISCLAIMER AND INDEMNIFICATION.

- 8.1 **Representation.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.
- 8.2 **Disclaimers.** THE REDSEAL STRATUS TRIAL SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND. REDSEAL SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- 8.3 UNDER NO CIRCUMSTANCES WILL REDSEAL BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA, NOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES. REDSEAL DOES NOT GUARANTEE THAT SERVICES WILL BE ERROR-FREE OR WILL MEET CUSTOMER'S REQUIREMENTS. REDSEAL'S TOTAL LIABILITY RELATING TO THE TRIAL SERVICE OR THIS AGREEMENT WILL NOT, IN ANY EVENT, EXCEED ONE HUNDRED DOLLARS (\$100.00).
- 8.4 **Indemnification.** 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 Trial 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 awarded against RedSeal as a result of, or for any amounts paid by RedSeal in settlement of, a Claim Against RedSeal.

9. GENERAL PROVISIONS

- 9.1 **Export Compliance.** The Trial 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.
- 9.2 **Entire Agreement.** This Agreement and any applicable Order Form(s) constitute the entire agreement between RedSeal and Customer regarding the provision and use of the Trial Services and supersede all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning their subject matter.
- 9.3 **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.
- 9.4 **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. Legal Notices to Customer will be addressed to Customer and be clearly identifiable as Legal Notices.
- 9.5 **Waiver.** No failure or delay by either party in exercising any right hereunder will constitute a waiver of that right.
- 9.6 **Severability.** If any provision of this Agreement 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 shall remain legal, valid and binding.
- 9.7 **Assignment.** RedSeal may assign this Agreement, in whole or in part, by operation of law or otherwise, without Customer's consent. Customer may not assign this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of RedSeal, which consent shall be at RedSeal's sole discretion. Any attempted assignment without such consent will be null and of no effect. This Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- 9.8 **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.