



DLT RIDER TO MANUFACTURER END USER TERMS (For Public Sector End Users)

1. **Scope.** This DLT Rider to Flexera Software LLC (“Manufacturer”) End User Terms (“DLT Rider”) establishes the terms and conditions enabling DLT Solutions, LLC (“DLT”) to provide Manufacturer’s Offerings to Public Sector Government Agencies to include the Federal, State and Local entities (the “Licensee” or “Customer”).
2. **Applicability.** The terms and conditions in the attached Manufacturer Terms are hereby incorporated by reference to the extent that they are consistent with Public Sector Laws (e.g., the Anti-Deficiency Act, the Contracts Disputes Act, the Prompt Payment Act, the Anti-Assignment statutes). To the extent the terms and conditions in the Manufacturer's Terms or any resulting Customer Order are inconsistent with the following clauses, they shall be deemed deleted and the following shall take precedence:
 - a. **Advertisements and Endorsements.** Unless specifically authorized by Customer in writing, use of the name or logo of Customer is prohibited.
 - b. **Assignment.** All clauses regarding Assignment are subject to Assignment of Claims and Novation and Change-of-Name Agreements. All clauses governing Assignment in the Manufacturer Terms are hereby deemed to be deleted.
 - c. **Audit.** During the term of a Customer order subject to this Rider: (a) If Customer's security requirements included in the Order are met, Manufacturer or its designated agent may audit Customer's facilities and records to verify Customer's compliance with this Agreement. Any such audit will take place only during Customer's normal business hours contingent upon prior written notice and adherence to any security measures the Customer deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. DLT on behalf of the Manufacturer will give Customer written notice of a desire to verify compliance ("Notice"); (b) If Customer’s security requirements are not met and upon Manufacturer's request, Customer will provide a written certification, executed by a duly authorized agent of Customer, verifying in writing Customer's compliance with the Customer order; or (c) discrepancies in price discovered pursuant to an audit may result in a charge by the commercial supplier to the Customer however, all invoices must be: i) in accordance with the proper invoicing requirements of the Customer; ii) if there is a dispute then no payment obligation may arise on the part of the Customer until the conclusion of the dispute process, and iii) the audit, if requested by the Customer, will be performed at the Manufacturer’s expense.
 - d. **Confidential Information.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, and any order by a Court with appropriate jurisdiction.
 - e. **Consent to Government Law / Consent to Jurisdiction.** The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States and/or the respective Customer’s state. Any Manufacturer Terms that identify the jurisdiction in which a lawsuit may be brought, the law which shall apply to such lawsuit, or the requirements to pursue Alternative Dispute Resolution prior to such lawsuit are deemed to be deleted. All clauses in the Manufacturer Terms referencing equitable remedies are deemed to be deleted.
 - f. **Contractor Indemnities.** DLT shall not be required to indemnify Customer except as explicitly stated in the contract. Any such indemnification requirement shall vest control over the matter with the United States and shall give DLT or the Manufacturer the right to intervene in the proceeding at its own expense through counsel of its own choice.





- g. **Customer.** Customer is the “Ordering Activity”, defined as any entity authorized to use government sources of supply. An individual person shall not be the Licensee or Customer.
- h. **Customer Indemnities.** Customer shall not be required to indemnify DLT except as in accordance with federal statute that expressly permits such indemnification.
- i. **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer Terms, unless a Customer determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid order placed by Customer.
- j. **Force Majeure.** Clauses in the Manufacturer Terms referencing Force Majeure and unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- k. **Future Fees or Penalties.** All fees and charges are as explicitly set forth in the Customer’s order. Additional fees or penalties such as liquidated damages or license, maintenance or subscription reinstatement fees be incorporated into the contract only by bilateral written agreement of the parties. Any clauses imposing additional fees or penalties automatically in Manufacturer’s Terms are hereby deemed to be deleted.
- l. **Renewals.** All Manufacturer Terms clauses that violate the Anti-Deficiency Act or which permit automatic renewal are hereby deemed to be deleted.
- m. **Taxes.** Taxes are subject to applicable jurisdiction regulations, which provides that the contract price includes all federal, state, local taxes and duties.
- n. **Termination.** Clauses in the Manufacturer Terms referencing termination or cancellation are hereby deemed to be deleted. Both DLT and Customer’s termination rights shall be governed by Contract Dispute Acts of the jurisdiction in which the transaction occurs.
- o. **Third Party Terms.** No entity shall have privity of contract with the United States with respect to any third-party product or service, referenced in the Manufacture’s Terms unless expressly stated in Customer’s order. Absent agreement by Customer to the contrary, third parties shall have no rights or obligations with respect to such agreements vis-à-vis the United States.
- p. **Waiver of Jury Trial.** All clauses referencing waiver of jury trial in the Manufacturer Terms are hereby deemed to be deleted.

Incorporation of Manufacturer Terms. Attached hereto are the Manufacturer Terms. As part of this Rider, the following Terms are incorporated by reference and made a part of this Rider except as modified as set forth above.





END-USER LICENSE AGREEMENT

This End-User License Agreement (“**Agreement**”) is a legal contract between you, either (a) an individual user or (b) a business organization (in either case the “**Licensee**”), and Flexera for the Software, Support and Maintenance, Content and/or Services.

By clicking on the “I ACCEPT” button or by copying, downloading, accessing or otherwise using the Software, Licensee agrees to be bound by the terms of this Agreement). If Licensee is an individual entering into this Agreement on behalf of a company or other legal entity, such individual represents that it has the authority to bind such entity and its Affiliates to these terms and conditions; if such individual does not have such authority, or if such individual does not wish to be bound by the terms of this Agreement, such individual must click the “I DO NOT ACCEPT” button, and/or must not install, access or use the Software. If Licensee has a separately executed written software license agreement with Flexera for the Software, then such separate agreement will apply and this End User License Agreement will be of no force or effect with respect to such Software.

As used herein, *for Licensees in Japan*, “**Flexera**” means Flexera Software GK, a Godo Kaisha organized under the laws of Japan; *for Licensees in Europe, Middle East, Africa, or India*, “**Flexera**” means Flexera Software Limited, a private company limited by shares and incorporated in England and Wales with company number 6524874; *for Licensees in Australia and New Zealand*, “**Flexera**” means Flexera Software Pty Limited. with ABN 40 052 412 156 and *for Licensees outside of the countries listed above*, “**Flexera**” means Flexera Software LLC, a Delaware limited liability company.

MASTER TERMS AND CONDITIONS

All Software licensed hereunder is subject to the definitions set forth below in Section I, the General Terms set forth in Section II, as well as the product specific definitions, terms and conditions set forth in the Schedule attached hereto relating to the particular Software product identified in the Order Confirmation (as defined below).

I. DEFINITIONS

“**Affiliate**” means any entity in which Licensee has the legal and practicable ability to procure compliance by the applicable entity with the terms and conditions of this Agreement.

“**Cloud Software**” means Software provided in a cloud-based software as a service delivery model.

“**Confidential Information**” means any business and/or technical information that is received by a party (“**Recipient**”) from the disclosing party (“**Discloser**”) that a) is in written, recorded, graphical or other tangible form and is marked “Confidential” or “Trade Secret” or similar designation; b) is in oral form and identified by the Discloser as “Confidential” or “Trade Secret” or similar designation at the time of disclosure, with subsequent confirmation in writing within thirty (30) days of such disclosure; or c) is received under circumstances that should reasonably be interpreted as imposing an obligation of confidentiality.

“**Contractor**” means any third party contracted by Licensee to perform services on behalf of and for the sole benefit of Licensee.

“**Documentation**” means the technical specification documentation generally made available by Flexera to its licensees with regard to the Software.

“**License Level**” means the allowed level of usage of the Software licensed to Licensee in an Order Confirmation or License Key email.

“**License Site**” means any location owned or leased solely by Licensee or an Affiliate or that portion of any shared space, such as a shared data center, attributable solely to Licensee or such Affiliate, or in the instance of an employee working remotely, that location from which such employee is working while using Licensee or Affiliate-provided equipment on which the Software may be installed.

“**Master Terms and Conditions**” means the definitions set forth in this Section I and the General Terms set forth in Section II.

“**On-Premise Software**” means the object code form of the Software licensed to Licensee for installation at a Licensee Site.

“**Order Confirmation**” means a confirmation document provided by Flexera specifying the Software and Support and Maintenance (if any) purchased by Licensee that are subject to the terms of this Agreement. An Order Confirmation may also be referred to as a “License Certificate” or “Licence Certificate”.

“**Products**” means Software, Content, Support and Maintenance, and Services delivered to Licensee hereunder.

“**Schedule**” means the schedule attached to this End User License Agreement titled “Schedule” that outlines the terms and conditions applicable to the Products identified in such Schedule.

“**Services**” means professional consulting services. Services do not include Support and Maintenance which is otherwise defined herein.

“**Software**” means the software products specified in an applicable Order Confirmation with which this Agreement was provided or referenced, including any Updates to the Software provided by Flexera to Licensee. Except as otherwise expressly set forth herein or in the applicable Order Confirmation, Software does not include source code. The Software may include features that will limit use of the Software in excess of the License Level.

“**Subscription Period**” means the fixed period of time applicable to a subscription license set forth in an applicable Order Confirmation for which Licensee is licensed to use the Product.

“**Support and Maintenance**” means the support and maintenance services set forth on the applicable Order Confirmation.

“**Third Party Software**” means any software contained in the Software that is licensed to Flexera by a third-party, including but not limited to open source software.

“**Updates**” means patches, additions, modifications, and new versions of the Software incorporating such patches, additions and modifications that are provided to Licensee by Flexera and that are not included in the initial delivery of the Software. Updates do not include additions or modifications that Flexera considers to be a separate product or for which Flexera charges its customers extra or separately.

“**Warranty Period**” means a period of ninety (90) days from initial delivery of the Software to Licensee pursuant to an Order Confirmation.

“**Work Product**” means anything created or provided by Flexera (or its agents) on behalf of Licensee as a part of Services, including, but not limited to, deliverables, work product, code or software and any derivative, enhancement or modification thereof.

II. GENERAL TERMS

1. **General Software Rights and Obligations.**
 - a. **License.** The specific license grant for the Software licensed by Licensee with which this Agreement was provided will be set forth in the applicable Schedule to this Agreement.
 - b. **License Term.** An Order Confirmation will identify whether Licensee is purchasing a perpetual license or a subscription license and, if a subscription, the Subscription Period. A Subscription Period is a committed, non-cancelable term.
 - c. **Delivery.** If Licensee licenses On-Premise Software, the On-Premise Software and associated Documentation will be delivered by electronic means. If Licensee licenses Cloud Software, Licensee will receive access to the Cloud Software via a website hosted by Flexera, pursuant to the terms and conditions set forth at <http://media.flexera.com/documents/Cloud-Service-Levels.pdf>.
 - d. **Reduction in License Level.** Unless otherwise agreed to by Flexera in writing, Licensee may not reduce its License Level for any purpose, including without limitation for the purpose of reducing Licensee's Support and Maintenance fee. Notwithstanding the foregoing, Licensee may terminate its licenses to the applicable Software in their entirety by providing written notice to Flexera.
 - e. **Installation and Copies.** Licensee may install On-Premise Software on Licensee's or Affiliates' machines only and only at Licensee Sites as many instances of the Software as is designated in the applicable Order Confirmation. Licensee may not make copies of the Software unless otherwise set forth in an applicable Order Confirmation. Notwithstanding the foregoing, Licensee may make a copy of the Software for back-up purposes. Licensee may allow a Contractor to install On-Premise Software on Contractor's own premises only if such Contractor signs an acknowledgment in a form provided by Flexera accepting responsibility for compliance with this Agreement.
 - f. **Use by Affiliates and Contractors.** Subject to the terms and conditions of this Agreement, Licensee's Affiliates and Contractors may also use the licenses granted to Licensee, provided that (a) such use is only for Licensee's or such Affiliate's benefit, and (b) Licensee agrees to remain responsible for each such Affiliate's and Contractor's compliance with the terms and conditions of this Agreement. Use of the Software by the Affiliates, Contractors and Licensee in the aggregate must be within the License Level.
 - g. **License Restrictions.** Licensee shall not (and shall not allow any third party to):
 - i. decompile, disassemble, or otherwise reverse engineer the Software or attempt to reconstruct or discover any source code, underlying ideas, algorithms, libraries, file formats, data, databases or programming interfaces of or provided with the Software by any means whatsoever (except and only to the extent that applicable law or Third Party Software license terms prohibits or limits reverse engineering restrictions, and then only with prior written notice to Flexera);
 - ii. distribute (except as expressly permitted herein), sell, sublicense, rent, lease or use the Software or Documentation (or any part thereof) for time sharing, service bureau, hosting, service provider or like purposes;
 - iii. remove any product identification, proprietary, copyright or other notices contained in the Software, including but not limited to any such notices contained in the physical and/or electronic media or Documentation, in the Setup Wizard dialog or "about" boxes, in any of the runtime resources and/or in any web-presence or web-enabled notices, code or other embodiments originally contained in or otherwise created by the Software, or in any archival or back-up copies, if applicable;
 - iv. modify any part of the Software or Documentation, create a derivative work of any part of the Software or Documentation, or incorporate the Software (or any part thereof) into or with other software, except to the extent expressly authorized in writing by Flexera or, where applicable to any Third Party Software and then only in relation to such component(s) by any applicable Third Party Software license agreement included with the Software;
 - v. conduct vulnerability scanning or penetration testing of Cloud Software;
 - vi. access any libraries, data or databases incorporated or provided with the Software via any mechanism other than the Software; or
 - vii. publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software or Documentation.
2. **Ownership.** Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided herein, Flexera and its suppliers will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Products and the Documentation and all copies thereof, modifications thereto, and derivative works based thereupon. Licensee acknowledges that it is obtaining only a limited license right to the Software and the Documentation and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights are being conveyed to Licensee under this Agreement or otherwise.
3. **Support and Maintenance.**
 - a. **Support and Maintenance.** Unless otherwise set forth in a Schedule, (i) Flexera will provide Support and Maintenance in accordance with the terms set forth at http://resources.flexera.com/web/pdf/archive/Silver_Support.pdf and (ii) Support and Maintenance is for a period of one (1) year from the date of delivery of the Software. Subscription license fees include Support and Maintenance for the duration of the Subscription Period.
 - b. **Exclusions.** Flexera will have no Support and Maintenance obligation to Licensee: (a) where the Software source code has been modified (except for Updates); or (b) for any Evaluation Software or Free Software.
 - c. **Technical Account Manager.** Licensee may purchase Technical Account Manager services to perform the duties set forth in Schedule 9. Technical Account Manager services may be renewed for the first renewal period (the duration of which may be no shorter than one year and no longer than the length of the initial period) for the same annual rate paid during the first period.
 - d. **Renewals.** For perpetual licenses, in the event Licensee elects not to obtain or renew Support and Maintenance, Licensee may retain the Software and Documentation but will have no further right to Support and Maintenance for the Software. If Licensee wishes to reinstate lapsed Support and Maintenance for a perpetual license, Licensee may do so only within ninety (90) days from expiration of the Support and Maintenance term by paying Flexera an amount equal to (i) the then-applicable annual Support and Maintenance fee plus (ii) one-hundred fifty percent (150%) of the fees that would have been due had Licensee remained enrolled during the lapsed period. For perpetual licenses, Support and Maintenance may be renewed for the first renewal period (the duration of which may be no shorter than one year and no longer than the length of the initial Support and Maintenance period) for the same annual rate paid



during the first Support and Maintenance period.

4. **Services.** Any Services provided by Flexera with respect to the Software will be provided pursuant to this Agreement.
 - a. **Expenses.** If Services are performed onsite at Licensee facilities, Licensee will reimburse Flexera for actual and reasonable travel expenses. Flexera will adhere to the more stringent of either Flexera's or Licensee's travel policy (as provided by Licensee and agreed to by Flexera).
 - b. **Delays and Cancellations.** If performance of Services is delayed due to Licensee's failure to provide required access, personnel availability or canceled with less than five (5) business days' notice once ordered by Licensee, Licensee shall pay Flexera at its then-current standard rates for each day for each person assigned by Flexera to provide the applicable Services if the Flexera resources cannot be redeployed by Flexera using reasonable efforts. In addition, Licensee agrees to reimburse any travel expenses which have been incurred and are non-cancelable, non-refundable, or non-creditable.
 - c. **Work Product.**
 - i. Flexera grants to Licensee a perpetual, non-transferable, non-sublicensable, non-exclusive, worldwide license right to import, export, execute, reproduce, distribute, modify, adapt, make derivative works of, and use Work Product for any internal purpose, provided such use is not competitive with Flexera.
 - ii. Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided herein, Flexera and its suppliers will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Work Product. Licensee acknowledges that it is obtaining only a limited license right to the Work Product and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights are being conveyed to Licensee under this Agreement or otherwise.
 - iii. Licensee acknowledges that any source code, design documents, strategy reports or other similar Work Product shall be considered Flexera Confidential Information.
 - iv. Work Product does not include any materials provided to Flexera by or on behalf of Licensee in connection with the Services. Licensee will retain any ownership interest (including all intellectual property rights) in such materials and Flexera will make no ownership claim with respect to such materials.
5. **Invoicing and Payment.**
 - a. **Invoicing.** Unless otherwise agreed in writing, Flexera will invoice Licensee as follows:
 - i. for perpetual Software licenses, fully in advance;
 - ii. for subscription Products, annually in advance; and
 - iii. for all other Services and associated expenses, monthly in arrears.
 - b. **Payment Terms.** All payments are non-refundable (except as expressly set forth in this Agreement) and shall be made within thirty (30) days of the date of the applicable invoice. Any late payments will be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.
 - c. **Purchases through Resellers.** In the event Licensee purchases Products via a reseller, the invoicing and payment terms agreed between Licensee and such reseller will apply in lieu of the terms set forth herein. If the reseller fails to pay the fees applicable to the Products delivered to Licensee, Licensee will be responsible to Flexera for payment of the fees due and not paid by the reseller.
 - d. **Multi-Year Purchase Orders.** For Products with Subscription Periods longer than one (1) year, Licensee may provide a purchase order for the total payable for the entire Subscription Period, or it may elect to provide a purchase order for one (1) year at a time; regardless of the purchase order form selected, if Licensee licenses a product for a Subscription Period longer than one (1) year, as evidenced by the Order Confirmation, the license is non-cancelable and Licensee will be obligated to pay for the total value of the subscription.
 - e. **Taxes.** Fees do not include taxes. If Flexera is required to pay any sales, use, GST, VAT, or other taxes in connection with Licensee's order, other than taxes based on Flexera's income, such taxes will be billed to and paid by Licensee. Licensee will make all payments of fees to Flexera free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of fees to Flexera will be Licensee's sole responsibility and consequently the amount of such fees will be increased such that the net fee received by Flexera will be the same as if such withholding taxes were not imposed, and Licensee will provide Flexera with official receipts issued by the appropriate taxing authority, or such other evidence as the Flexera may reasonably request, to establish that such taxes have been paid.
6. **Term.** This Agreement is effective as of the date accepted by Licensee and will continue until terminated in accordance herewith or until all Subscription Periods have expired, whichever is earlier.
7. **Termination.** This Agreement and Licensee's license may be terminated by Flexera if (a) Licensee fails to make payment and/or (b) Licensee fails to comply with the terms of this Agreement within ten (10) days after receipt of written notice of such failure. Upon expiration of a subscription license or termination of any license, Licensee shall cease any and all use of the expired or terminated Product and destroy all copies of such Product and associated Documentation (including copies in storage media), and so certify to Flexera in writing. This requirement applies to all copies in any form, partial or complete. Any provision that by the very nature of which should survive will survive any termination or expiration of this Agreement.
8. **Warranty.**
 - a. **Limited Software Performance Warranty.** Flexera warrants to Licensee that during the Warranty Period the Software will operate in substantial conformity with the Documentation. Flexera does not warrant that Licensee's use of the Software will be uninterrupted or error-free or that any security mechanisms implemented by the Software will not have inherent limitations. Flexera's sole liability (and Licensee's exclusive remedy) for any breach of this warranty will be, in Flexera's sole discretion, to use commercially reasonable efforts to provide Licensee with an error-correction or work-around which corrects the reported non-conformity, to replace the non-conforming Software with conforming Software, or if Flexera determines such remedies to be impracticable within a reasonable period of time, to terminate the Agreement and refund the license fee paid for the Software. Flexera will have no obligation with respect to a warranty claim unless notified of such claim in writing within the Warranty Period.
 - b. **Exclusions.** The limited warranties set forth in this Section do not apply to warranty claims arising out of or relating to: (a) use of the Software with hardware or software not required in the Documentation; (b) modifications made to the Software source code; (c)



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9. **Infringement Indemnity.** Flexera will defend and indemnify Licensee from and against any claim asserted against Licensee and its employees, officers, board members, agents, representatives, and officials by a third party based upon an allegation that the Software infringes a copyright or trademark. If the Software is, or in Flexera's opinion use of the Software is likely to be, enjoined due to the type of infringement specified above, or if required by settlement, Flexera may, in its sole discretion: (a) substitute for the Software substantially functionally similar programs; (b) procure for Licensee the right to continue using the Software; or if (a) and (b) are commercially impracticable, (c) terminate the Agreement and refund to Licensee (i) for perpetual licenses, the license fee(s) paid by Licensee as of the date of termination, reduced to reflect a five year straight-line depreciation from the applicable license purchase date, and (ii) for subscription licenses, any prepaid and unused fees as of the date of termination. The foregoing indemnification obligation of Flexera will not apply to the extent the infringement claim arises as a result of: (1) modification of the Software (except for setting configuration options provided in the Software) by Licensee, a third party, or Flexera at Licensee's request; (2) the combination of the Software with other non-Flexera products or processes not specifically required in the Documentation; (3) Licensee's unauthorized use of the Software or use of the Software in violation of this Agreement; (4) Licensee's failure to implement an Update to the Software which would avoid the infringement after Flexera provides notice that implementing such Update would avoid the infringement; or (5) Third Party Software. The foregoing indemnity obligations are conditioned upon Licensee providing to Flexera (i) prompt written notice of any claim (but in any event notice in sufficient time for Flexera to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation. THIS SECTION SETS FORTH FLEXERA'S AND ITS SUPPLIERS' SOLE LIABILITY AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT, INCLUDING A BREACH OF ANY REPRESENTATION OR WARRANTY RELATED THERETO.
 10. **Limitation of Liability.**
 - a. **NEITHER FLEXERA NOR ITS SUPPLIERS, IF ANY, WILL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS, LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, OR INTERRUPTION OF BUSINESS), OR FOR DAMAGE TO SYSTEMS OR DATA, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF FLEXERA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FLEXERA'S LIABILITY FOR ANY DAMAGES HEREUNDER WILL IN NO EVENT EXCEED THE AMOUNT OF LICENSE FEES THAT LICENSEE HAS PAID TO FLEXERA.**
 - b. **FOR USERS WITHIN EUROPE, THE MIDDLE EAST, AFRICA, OR INDIA, NO PERSON WHO IS NOT A PARTY TO THIS AGREEMENT WILL BE ENTITLED TO ENFORCE ANY TERMS OF THE SAME UNDER THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999.**
 - c. **FLEXERA DOES NOT LIMIT OR EXCLUDE ITS LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.**
 11. **Assignment.** Licensee may not, by operation of law or otherwise, transfer any license rights or other interests in Evaluation Software, Free Software, or NFR Software. Licensee may not assign this Agreement (or any part thereof) without the advance written consent of Flexera, except that Licensee may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Licensee's assets or voting securities; provided that (i) Licensee must permanently and wholly transfer all of Licensee's rights and obligations under this Agreement; (ii) Licensee must permanently and wholly transfer all of the Products (including component parts, media, printed materials, upgrades, prior versions, and authenticity certificates); (iii) Licensee may retain no instances or copies (whole or partial) of the Products, (iv) no assignment by Licensee will be effective until Licensee (x) provides written notice of such assignment, including the assignee's written agreement to the terms of this Agreement, (y) purchases additional license capacity and/or Support and Maintenance as may be required as a result of such assignment, and (z) pays any outstanding amounts invoiced by Flexera. Notwithstanding the foregoing, Licensee may not, in any event, assign any limitless License Level licenses. Any attempt by Licensee to transfer or assign this Agreement except as expressly authorized under this Section will be null and void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.
 12. **Controlling Law.** For Licensees in North America and Latin America, this Agreement will be governed by the laws of the State of Illinois and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. For Licensees in Europe, Middle East, or Africa, this Agreement will be governed by the substantive laws of England and Wales, excluding that body of law known as conflicts of law and without regard to the United Nations Convention on Contracts for the Sale of Goods. For Licensees in Australia, this Agreement will be governed by the laws of the State of Victoria, Australia without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. For Licensees in Japan, this Agreement will be governed by the laws of Japan without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. For Licensees in the Asia Pacific region other than Australia and Japan, this Agreement will be governed by the laws of Special Administrative Region of Hong Kong without regard to conflicts of laws provisions thereof, and without regard to the Uniform Computer Information Transactions Act and the United Nations Convention on the International Sale of Goods.
 13. **Compliance.**
 - a. **Verification/Audits.** Upon Flexera's reasonable request, Licensee will furnish Flexera with a signed statement confirming whether the Products are being used by Licensee in accordance with this Agreement. Such statement must be provided by a person sufficiently aware of the information being certified to and at a level sufficient to bind Licensee. Further, during the term of this Agreement and for a period of one (1) year thereafter, with prior reasonable notice of at least five (5) days, Flexera may audit Licensee for the purpose



of verifying the information provided by Licensee under this Agreement, and for the purpose of verifying that Licensee is conforming to the terms of this Agreement. Any such audit will be conducted during regular business hours at Licensee's facilities and will not unreasonably interfere with Licensee's business activities. If an audit reveals an underpayment or that Licensee's usage is greater than the License Level, then Licensee shall immediately pay the difference in License fees and, if applicable, Support and Maintenance fees to bring the License Level into compliance. If an audit reveals that (i) Licensee has intentionally misrepresented its usage of the Products, (ii) Licensee materially breached this Agreement, or (iii) Licensee's usage is more than 5% over the License Level, then Licensee shall pay Flexera's reasonable costs of conducting the audit in addition to any fees due to Licensee's misrepresentation or material breach. Audits will be conducted no more than once annually.

- b. **Validation of Use.** In order to protect the Products from unauthorized use and in order to confirm Licensee's compliance with the license grants and restrictions set forth in this Agreement, the Products may contain validation procedures designed to detect and report to Flexera information identifying usage potentially violating the terms of this Agreement. This information does not contain any personally identifiable information of Licensee or the end user.
14. **Confidentiality.**
- a. **Confidential Information.** Any software, documentation or technical information provided by Flexera (or its agents), performance information relating to the Products, and the terms of this Agreement will be deemed "Trade Secrets" of Flexera without any marking or further designation.
 - b. **Protection of Confidential Information.** The Recipient will a) have the right to disclose the Confidential Information only to its employees, consultants and Affiliates having a need to know and who have agreed in writing to be bound to confidentiality terms substantially similar to those contained herein; b) use at least as great a standard of care in protecting the Discloser's Confidential Information as it uses to protect its own information of like character, but in any event not less than a reasonable degree of care; c) use such Confidential Information only in connection with its rights and/or obligations under this Agreement; and d) at the Discloser's option return or destroy any or all Confidential Information upon the Discloser's demand. Except as expressly authorized herein, for a period of three (3) years following the disclosure date of Confidential Information to the Recipient, the Recipient will hold in confidence and not make any unauthorized use or disclosure of any Confidential Information. No time limit applies to Confidential Information marked or otherwise identified as or deemed to be a "Trade Secret".
 - c. **Usage Data.** Licensee understands that Flexera may utilize technology that gathers information about Licensee's computer system, however, such data is used solely for the purpose of understanding machine types and other system-oriented information and does not contain any personally identifiable information of Licensee.
 - d. **Exclusions.** The Recipient's nondisclosure obligation will not apply to information that: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Recipient; (c) is rightfully obtained by the Recipient from a third party without breach of any confidentiality obligation; (d) is independently developed by employees of the Recipient who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Discloser).
 - e. **Equitable Relief.** The Recipient acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Recipient the Discloser will be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.
15. **Third Party Software.** The Software licensed hereunder includes Third Party Software. A list of all Third Party Software included with On-Premise Software will be provided to Licensee on request. To the extent that there is a conflict between the terms of this Agreement and such Third Party Software terms, the Third Party Software terms will take precedence.
16. **Publicity.** Either party may include the other party's company name in a list of customers and/or suppliers without the other party's written consent. Any other use of the other party's name or logo is prohibited without such other party's written consent.
17. **Severability.** If any provision of this Agreement is determined by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in effect.
18. **Waivers.** No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in writing signed by a duly authorized representative on behalf of the party claimed to have waived.
19. **Notices and Reports.** Any notice or report due to Flexera hereunder must be in writing to the notice address set forth in the preamble to this Agreement (for Flexera, a mandatory copy must always be sent to: Flexera Software LLC, 300 Park Boulevard Suite 500, Itasca, IL 60143, Attention Legal Department). Any notice or report due to Licensee hereunder must be in writing to the address set forth in the Order Confirmation. Notice will be deemed given: (a) upon receipt if by personal delivery; (b) two (2) Business Days following deposit for delivery to the party with an internationally recognized overnight courier; or (c) via confirmed facsimile in which case it will be deemed received on the date of the transmission as evidenced by a valid receipt of confirmation. Each party to this Agreement may change its location for notice under this Agreement by giving notice to the other party in accordance with the notice provisions contained in this Section.
20. **Construction and Interpretation.** The original of this Agreement has been written in English. Licensee waives any rights it may have under the law of its country to have this Agreement written in the language of that country. The use of the terms "including," "include" or "includes" will in all cases herein mean "including without limitation," "include without limitation" or "includes without limitation," respectively. Unless the context otherwise requires, words importing the singular include the plural and vice-versa. Words importing the singular include the plural and words importing the masculine include the feminine and vice versa where the context so requires. This Agreement will be equally and fairly construed without reference to the identity of the party preparing this document. The parties waive the benefit of any statute, law or rule providing that in cases of uncertainty, contract language should be interpreted most strongly against the party who caused the uncertainty to exist. The headings and titles to the articles and sections of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of any provision hereof.
21. **Order of Precedence.** In the event of a conflict between the terms of the Master Terms and Conditions, a Schedule, an Order Confirmation, and/or any other attachment or exhibit, the order of precedence is as follows: (i) Order Confirmation, (ii) Schedule, (iii) attachment, (iv) exhibit, and (v) Master Terms and Conditions.



22. **Independent Contractors.** The parties are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Licensee acknowledges and agrees that the Products may provide results and conclusions based on facts, assumptions, data, material, and other information that Flexera has not independently investigated or verified. Inaccuracy or incompleteness of such facts, assumptions, data, material, and other information could have a material effect on conclusions reached by the Products; all actions taken or not taken by Licensee based on the output of the Products will be the responsibility of Licensee. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.
23. **Non-Solicitation.** During the term of this Agreement and for a period of one year thereafter, Licensee agrees that it will not hire or attempt to hire, on behalf of Licensee or any other organization, any employee of Flexera unless Licensee has first obtained Flexera's written consent. Notwithstanding the foregoing, Licensee will not be in breach of this provision if an employee of Flexera responds to a general advertisement for employment.
24. **Force Majeure.** Neither party will be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to events which are beyond the reasonable control of such party, including but not limited to any strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or of telecommunications or data networks or services, or refusal of approval or a license by a government agency.
25. **U.S. Government End-Users.** The Software is commercial computer software. If the user or licensee of the Software is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Software was developed fully at private expense. All other use is prohibited. Licensee shall flow-down this provision to any of its authorized sublicensees (including but not limited to any Licensee Products, as applicable).
26. **Export Compliance.** Licensee acknowledges that the Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments. Unless authorized by a license or by regulation, Licensee must not export or re-export the Products, directly or indirectly, to: (a) any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval; (b) any end user who has been prohibited from participating in United States export transactions by any federal agency of the United States government; or (c) any end user who you know or have reason to know will utilize them in the design, development or production of nuclear, chemical or biological weapons, or rocket systems, space launch vehicles, and sounding rockets, or unmanned air vehicle systems. Licensee is responsible for complying with any local laws in your jurisdiction which may impact your right to import, export or use the Products.
27. **Equal Opportunity.** Flexera agrees that it does not and will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, handicap, national origin, or sexual orientation.
28. **Anti-Bribery.** Each party represents and warrants that (i) in connection with this Agreement, it has not and will not make any payments or gifts or any offers or promises of payments or gifts of any kind, directly or indirectly, to any official of any government or any agency or instrumentality thereof and (ii) it will comply in all respects with the Foreign Corrupt Practices Act and UK Bribery Act 2010.
29. **Ambiguities.** Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not apply in interpreting this Agreement.
30. **Remedies Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties under this Agreement are cumulative and not exclusive of any rights or remedies to which the parties are entitled by law. The exercise by either party of any right or remedy under this Agreement or under applicable law will not preclude such party from exercising any other right or remedy under this Agreement or to which such party is entitled by law.
31. **Schedules.** The following Schedules are attached to this End User License Agreement and are hereby incorporated by reference:
 - a. [Schedule 1](#) – Terms and Conditions for Installation Products
 - b. [Schedule 2](#) – Terms and Conditions for Application Readiness Products
 - c. [Schedule 3](#) – Terms and Conditions for Software License Optimization Products
 - d. [Schedule 4](#) – Terms and Conditions for Software Vulnerability Management Products
 - e. [Schedule 5](#) – Terms and Conditions for Software Composition Analysis Products
 - f. [Schedule 6](#) – Terms and Conditions for Software Monetization Products
 - g. [Schedule 7](#) – Terms and Conditions for Data Platform Products
 - h. [Schedule 8](#) – Terms and Conditions for Evaluation Software, Free Software, and NFR Software
 - i. [Schedule 9](#) – Terms and Conditions for Technical Account Manager
32. **Entire Agreement.** This Agreement, including all Schedules, is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No supplement, modification, or amendment of this Agreement will be binding, unless executed in writing by a duly authorized representative of each party to this Agreement, except that Flexera may modify this Agreement from time to time by including a revised version with new versions of the Products. The modified terms will become effective upon inclusion with the new version and will apply only to that version and any future version thereafter. By Licensee accepting the revised Agreement, Licensee agrees to be bound by the current terms then in effect. It is Licensee's responsibility to review the Agreement for all new versions. No provision of any purchase order or other business form employed by Licensee will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement will be for administrative purposes only and will have no legal effect.

[END OF MASTER TERMS AND CONDITIONS]



**SCHEDULE 1
TERMS AND CONDITIONS FOR INSTALLATION PRODUCTS**

The terms of this Schedule 1 applies to all Installation products licensed by Flexera to Licensee. Any terms not defined in this Schedule 1 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 1 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 1 and the Master Terms and Conditions, the terms included in this Schedule 1 will control. As of April 2018, the following products are considered "Installation products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 1:

**InstallShield Express
InstallShield Professional
InstallShield Premier
InstallShield Standalone Build**

**InstallShield Lite
InstallAnywhere
InstallAnywhere Standalone Build**

I. DEFINITIONS

"Build System" means a machine or group of machines dedicated to compiling code via automated or scheduled tasks.

"Internal Purposes" means distribution of installation programs of Licensee products both internally within Licensee and externally to Licensee's customers.

"Upgrade" means a new version of Software made available by Flexera, and identified in an invoice, Order Confirmation, or SKU as an "Upgrade".

"User" means the individuals who access the Software for the purposes of designing and developing software installations.

II. INSTALLSHIELD LITE

The use of InstallShield Lite will be governed by the terms set forth in this Article II, in addition to the terms set forth in the Agreement. Each individual User may only register for a single instance of InstallShield Lite. In the event of a conflict between the terms of this Article II and the rest of the Agreement, the terms of this Article II will prevail.

1. **Grant of License.** InstallShield Lite is a functionally limited version of the InstallShield software and is intended specifically for use with Visual Studio. Subject to all of the terms and conditions of this Agreement, Flexera grants Licensee a limited, internal use, non-exclusive, non-transferable license to use the Software solely for Licensee's Internal Purposes at Licensee's site(s) only. Flexera grants Licensee the right to install and use the software on a single computer to be used exclusively with Visual Studio and the right to install and use up to two (2) additional instances for use within a Team Foundation Server environment. For the purposes of this Section, Software also includes any Documentation of the Software product provided to Licensee under this Agreement.
2. **No Support.** InstallShield Lite is provided without support, updates, or upgrades from Flexera. InstallShield Lite customers may, however, request and share knowledge and expertise via Flexera Community, located at <https://community.flexera.com/>
3. **Disclaimer of Warranty.** **THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS. NEITHER FLEXERA NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. LICENSEE MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTER OF (I) THE STATUTORILY REQUIRED PERIOD OR (II) THIRTY (30) DAYS FROM LICENSEE'S ACCEPTANCE OF THIS AGREEMENT.**
4. **Limitation of Liability.** **IN NO EVENT WILL FLEXERA BE LIABLE FOR ANY DAMAGES, INCLUDING LOST PROFITS OR DATA, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE OR ANY DATA SUPPLIED THEREWITH, EVEN IF FLEXERA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA'S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**

III. LICENSE RIGHTS AND OBLIGATIONS

1. **License.**
 - a. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use Software for Internal Purposes at Licensee's site(s) only, but only in accordance with (a) the Documentation, (b) this Agreement and (c) the License Level. For the purposes of this Section, Software also includes any Documentation and any Updates provided to Licensee under this Agreement. For Software that will be used in a service provider role, the terms of Article IV will apply; licenses not identified as "Service Provider" licenses on an Order Confirmation may not be used in a service provider capacity and will be governed by this Article III. Distribution of installation programs of non-Licensee products will require a service provider license as governed by the terms of Article IV below.
 - b. **License Models.** Licensee may be licensed pursuant to one of the following license models, which will be identified on the applicable Order Confirmation.
 - i. **Node-Locked Licenses.** If Licensee has licensed Software on a node-locked basis, Licensee may install and use one instance of the Software on a single computer either physically installed or on a virtual image on that computer only at Licensee's site(s) for Licensee's Internal Purposes only in accordance with the License Level. A node-locked license is limited to use by a single User on a single computer or virtual image; Licensee may not install the Software on a shared computer. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is strictly prohibited.
 - ii. **Concurrent Licenses.** If Licensee has licensed on a concurrent basis, Licensee may install the Software on any machine at Licensee's site(s) for Licensee's Internal Purposes only in accordance with the License Level. All machines using the Software must have the ability to communicate with a license server to be authorized to use the Software. For the purpose



of certification as set forth in the Agreement, the number of concurrent Users is the highest number of Users that accessed the Software at any single point during the previous year.

- c. Standalone Build Licenses. In addition to the use rights for the Software, Standalone Build Licenses may also be run on a separate Build System but only if run by automated processes or by a User. If Licensee has licensed the InstallAnywhere Standalone Build Node-Lock Software, Licensee may install and use one copy of the Software on a single computer residing on Licensee's premises only for Licensee's Internal Purposes.
 - d. Upgrades. Upgrades, if provided to Licensee, may be licensed to Licensee by Flexera with additional or different terms and conditions. Upgrades may be used only by the User of the original version of the Software that is being upgraded. After installation of an Upgrade, such User may continue to use the prior version(s) of the Software in accordance with the terms and conditions applicable to such version, provided that (i) the prior version(s) may only be used by the same User of the Upgrade; (ii) Licensee acknowledges that any obligation Flexera may have to support the prior version(s) may be ended upon the availability of the Upgrade.
 - e. Dual-Media Software. Licensee may receive the Software in more than one medium (electronic and on a DVD, for example). Receipt of the Software in more than a single manner (electronic or on a DVD, for example) does not expand the license rights granted to Licensee hereunder. Licensee's use of the Software is limited to the number of licenses (instances) that Licensee has acquired overall, regardless of number or type of media on which it has been provided.
 - f. Transfers. Transfers of licenses that are the result of employee turnover or reassignment are allowed, provided that such transfers do not occur more frequently than annually.
2. Redistributable Files. The Software component parts may not be separated for use on more than one computer, except as set forth in this Agreement. Licensee may copy the files specifically identified in the documentation as "redistributables" and redistribute such files to Licensee's end users of Licensee's products, provided that: (a) such products add primary and substantial functionality to the redistributables, (b) all copies of the redistributables must be exact and unmodified; and (c) Licensee grants Licensee's end users a limited, personal, non-exclusive and non-transferable license to use the redistributables only to the extent required for the permitted operation of Licensee's products and not to distribute them further. Licensee will reproduce with the redistributables all applicable trademarks and copyright notices that accompany the Software, but Licensee may not use Flexera's name, logos or trademarks to market Licensee's products.

IV. SERVICE PROVIDER USE LICENSE RIGHTS AND OBLIGATIONS

This Article IV sets forth the terms and conditions under which Licensee has licensed quantities of the Software for use in the delivery of Software Engineering Services to its Customers, as those terms are defined below.

1. Definitions.
 - a. "**Customers**" means the customers of Licensee for which Licensee has purchased a service provider license to use the Software to provide Software Engineering Services. Licensee may not be its own Customer. Licensee shall be solely responsible for the Customer relationship; Flexera will have no obligations whatsoever to Customers.
 - b. "**Software Engineering Services**" means those services that Licensee provides to Customers utilizing the Software for the purpose of creation or modification of installation programs of Customer products.
2. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for the sole purpose of providing Software Engineering Services to Customers for such Customer's Internal Purposes, (i) Software, in accordance with the Documentation, and (ii) Documentation. For the purpose of this clause, the definition of "Internal Purposes" replaces "Licensee" with "Customer".
3. Installation. Licensee may install and operate the Software at a Customer location.
4. License Models.
 - a. Node-Locked Licenses. If Licensee has licensed Software on a node-locked basis, Licensee may install and use one instance of the Software on a single computer either physically installed or on a virtual image on that computer only at Licensee's site(s) for delivery of Software Engineering Services only in accordance with the License Level. A node-locked license is limited to use by a single User on a single computer or virtual image; Licensee may not install the Software on a shared computer. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is strictly prohibited.
 - b. Concurrent Licenses. If Licensee has licensed on a concurrent basis, Licensee may install the Software on any machine at Licensee's site(s) for delivery of Software Engineering Services only in accordance with the License Level. All machines using the Software must have the ability to communicate with a license server to be authorized to use the Software. For the purpose of certification as set forth in the Agreement, the number of concurrent Users is the highest number of Users that accessed the Software at any single point during the previous year.
2. License Restrictions.
 - a. Software may not be left behind at Customer's site or on Customer's systems once the Software Engineering Services are completed. If computers, servers or networks on which the Software is installed are no longer owned or leased by Licensee, Licensee must remove the Software from such computers, servers or networks.
 - b. Licensee may not use the Software for its own Internal Purposes.
3. Licensee Obligations.
 - a. Representations. Licensee must not make any representations, guarantees or warranties of any type with respect to the specifications, features, capabilities or otherwise concerning the Software which are in addition to or inconsistent with those set forth in the product descriptions or promotional materials delivered by Flexera to Licensee hereunder. In no event may Licensee make any representation, warranty or guarantee by or on behalf of Flexera. Licensee shall represent Flexera and its Software in a positive and professional manner at all times. Licensee may not re-brand or otherwise represent the software as anything other than [Product Name] by Flexera Software LLC without express written approval from Flexera. This includes, but is not limited to, reports, splash screens,



documentation and all other intellectual property.

- b. **Business Practices.** Licensee agrees not to engage in any deceptive, misleading, illegal or unethical practices that may be detrimental to Flexera or its Software and agrees to comply with all applicable federal, state and local laws and regulations (including, without limitation, data protection, privacy and import and export compliance laws and regulations) in connection with its performance under this Agreement. Licensee further agrees to notify Flexera sixty (60) days in advance if Licensee intends to sell, represent or promote any products competitive with the Software.
 - c. **Licensee Indemnity.** Licensee will defend, indemnify and hold harmless Flexera from and against any loss, cost, liability or damage, including attorneys' fees, for which Flexera becomes liable arising from or relating to: (a) any breach by Licensee of any term of this Agreement, (b) the issuance by Licensee of any warranty or representation not authorized in writing by Flexera or (c) any other act or omission of Licensee in connection with the marketing or distribution of the Software under this Agreement.
 - d. **Software Engineering Services Site.** Licensee shall identify, upon Flexera's request, the Customer and the site of the performance of the Software Engineering Services for such Customer for each applicable license.
 - e. **Notice of Termination of Software Engineering Services for Named Customer.** In the event Software Engineering Services expire or are terminated for a particular Customer, Licensee may be required to notify Flexera of such expiration or termination within thirty (30) days of the effective date of such expiration or termination.
 - f. **Flow-Through of Terms.** Licensee shall enter into an agreement with a Customer that is equally as protective of the Software as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to the Software of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to the Software in the same manner as Licensee enforces such agreement with respect to Licensee's own intellectual property, which shall be at least in a reasonable manner. In any event, Flexera and Licensee will reasonably cooperate on actions to be taken to enforce breaches of Flexera's intellectual property rights against a Customer.
4. **Expiration.**
 - a. **Expiration of Licenses.** Upon completion or termination of the Software Engineering Services for a Customer (the "Expiration Date"), Licensee will cease using the applicable licenses for such Customer. If the Software was installed and used at Customer's site, Licensee will uninstall the Software from any equipment used for the provision of Software Engineering Services to such Customer, and will provide Flexera with certification thereof. For the purpose of clarity, Licensee may not transfer licenses to Customers without Flexera's prior written consent, which may be withheld in Flexera's sole discretion.
 - b. **Effect of Termination.** In no event will Licensee be entitled to receive a refund of any licensee fees paid prior to the applicable termination date, and Licensee shall be responsible for the fees applicable for the remainder of the license term as if such license had not been terminated or expired.
 5. **Support and Maintenance.** Flexera will have no support or maintenance obligations whatsoever to Customers.
 6. **Marketing and Trademarks.**
 - a. **Marketing Materials.** All marketing materials, demonstration copies of the Software (if applicable), and other materials provided by Flexera hereunder will remain the property of Flexera, and upon termination or expiration, such materials will be returned to Flexera within thirty (30) days.
 - b. **Trademarks.** Licensee may use Flexera's trademarks in connection with the Software. All displays of Flexera's trademarks that Licensee intends to use will conform to reasonable guidelines provided from time to time by Flexera. Flexera will have the right to approve all usage by Licensee of its trademarks. Licensee will not use any of Flexera's trademarks in conjunction with another trademark.

[END OF SCHEDULE 1]



SCHEDULE 2
TERMS AND CONDITIONS FOR APPLICATION READINESS PRODUCTS

The terms of this Schedule 2 will apply to all Application Readiness products licensed by Flexera to Licensee. Any terms not defined in this Schedule 2 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 2 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 2 and the Master Terms and Conditions, the terms included in this Schedule 2 will control. As of April 2018, the following products are considered "Application Readiness products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 2:

AdminStudio Standard
AdminStudio Professional
AdminStudio Enterprise
AdminStudio AppRisk Module

AdminStudio Limited Edition
Workflow Manager
WiseScript Editor

I. DEFINITIONS

1. **"Administrator"** means the individuals within Licensee's organization who access the software for the purpose of packaging, re-packaging, evaluating compatibility or suitability of, or creating any workflows for the purpose of deploying a software application or any administrative function related to the Software. Each Administrator license may be installed on one computer and used solely by an individual Administrator within Licensee's organization. Software licensed on a per Administrator model is node-locked and is limited to use by a single individual on a single computer or virtual image; Licensee may not install the Software on a shared computer. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is strictly prohibited. For the purpose of clarity, a single Administrator license may not be used by more than one individual. For the purpose of certification as set forth in this Agreement, the number of Administrators includes all Administrators that accessed the Software at any point during the previous year.
2. **"Device"** means any physical or virtual device for which any function is performed by the Software (including but not limited to scanning, delivering, installing, updating, migrating or repairing any computer program or data file; or scanning, monitoring, tracking, or reporting on the status, history, or security vulnerabilities of any software or hardware components or software licenses on or used by the device). For the purpose of certification as set forth in the Agreement, the number of Devices includes the highest number of Devices that were in place at any point during the previous year. A "Device" may have also been referred to in legacy license models as "Desktop" or "Endpoint Device".
3. **"Internal Purposes"** means distribution of packages to Licensee's own systems and employees.
4. **"Employee"** means any individual in Licensee's organization that may request, have deployed to, or otherwise receive any application, package, or other software prepared using the Software. For the purpose of certification as set forth in this Agreement, the number of Employees includes the highest number of Employees that were in place at any point during the previous year. The Software may be installed and used by Licensee on computers only at Licensee's site(s) solely for the benefit of some or all of the Employees within Licensee's organization, and only if that total number of Employees within Licensee's organization does not exceed the License Level.

II. ADMINSTUDIO LIMITED EDITION

The use of AdminStudio Limited Edition will be governed by the terms set forth in this Article II, in addition to the terms set forth in the Agreement. In the event of a conflict between the terms of this Article II and the rest of the Agreement, the terms of this Article II will prevail. Each individual User may only register for a single instance of AdminStudio Limited Edition.

1. **Grant of License.** AdminStudio Limited Edition is a functionally limited version of the AdminStudio software and is intended specifically for use with third party client management software. Subject to all of the terms and conditions of this Agreement, Flexera grants Licensee a limited, internal use, non-exclusive, non-transferable license to use AdminStudio Limited Edition solely for Licensee's Internal Purposes at Licensee's site(s) only. Flexera grants Licensee the right to install and use AdminStudio Limited Edition. For the purposes of this Section, AdminStudio Limited Edition also includes any Documentation of AdminStudio Limited Edition provided to Licensee under this Agreement.
2. **Disclaimer of Warranty.** **ADMINSTUDIO LIMITED EDITION IS PROVIDED ON AN "AS IS" BASIS. NEITHER FLEXERA NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. LICENSEE MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTER OF (I) THE STATUTORILY REQUIRED PERIOD OR (II) THIRTY (30) DAYS FROM LICENSEE'S ACCEPTANCE OF THIS AGREEMENT.**
3. **Limitation of Liability.** **IN NO EVENT WILL FLEXERA BE LIABLE FOR ANY DAMAGES, INCLUDING LOST PROFITS OR DATA, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE USE OR INABILITY TO USE ADMINSTUDIO LIMITED EDITION OR ANY DATA SUPPLIED THEREWITH, EVEN IF FLEXERA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA'S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**

III. INTERNAL USE LICENSE RIGHTS AND OBLIGATIONS

This Article III sets forth the terms and conditions under which Licensee desires to license quantities of the Software for its internal use.

1. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. For Software that will be used in a service provider role, the terms of Article IV will apply; licenses not identified as "Service Provider" licenses on an Order Confirmation may not be used in a service provider capacity and will be governed by this Article III. Distribution of packages to any third



party customer of Licensee requires a service provider license as governed by the terms of Article IV below.

2. **Redistributables.** The Software component parts may not be separated for use on more than one computer, except as set forth in this Agreement. Licensee may copy the files specifically identified in the documentation as “redistributables” and redistribute such files to Licensee’s end users of Licensee’s products, provided that: (a) such products add primary and substantial functionality to the redistributables, (b) all copies of the redistributables must be exact and unmodified; and (c) Licensee grants Licensee’s end users a limited, personal, non-exclusive and non-transferable license to use the redistributables only to the extent required for the permitted operation of Licensee’s products and not to distribute them further. Licensee will reproduce with the redistributables all applicable trademarks and copyright notices that accompany the Software, but Licensee may not use Flexera’s name, logos or trademarks to market Licensee’s products.
3. **Transfers.** Transfers of Administrator licenses that are the result of employee turnover or reassignment are allowed, provided that such transfers do not occur more frequently than once annually.

IV. SERVICE PROVIDER USE LICENSE RIGHTS AND OBLIGATIONS

This Article IV sets forth the terms and conditions under which Licensee has licensed quantities of the Software for use in the delivery of Packaging Services to its Customers, as those terms are defined below.

1. **Definitions.**
 - a. **“Customers”** means the customers of Licensee for which Licensee has purchased a service provider license to use the Software to provide Packaging Services. Licensee may not be its own Customer. Licensee shall be solely responsible for the Customer relationship; Flexera will have no obligations whatsoever to Customers.
 - b. **“Packaging Services”** means those services that Licensee provides to Customers utilizing the Software for the purpose of rationalizing and/or creating application packages for deployment within Customer’s internal organization.
2. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee’s payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for the sole purpose of providing Packaging Services to Customers for such Customers’ Internal Purposes, (i) Software, in accordance with the Documentation, and (ii) Documentation. For the purpose of this clause, the definition of “Internal Purposes” replaces “Licensee” with “Customer”.
3. **Installation.** Licensee may install and operate the Software at a Customer location.
4. **License Models.**
 - a. **Concurrent Licenses.** Service Provider licenses may be provided on a concurrent Administrator basis. Notwithstanding the definition of “Administrator”, if Licensee has licensed Service Provider licenses on a concurrent Administrator basis, the Software may be used by any individuals within Licensee’s organization, up to the License Level. All machines using the Software must have the ability to communicate with a license server to be authorized to use the Software. For the purpose of certification as set forth in the Agreement, the number of Administrators is the highest number of Administrators that accessed the Software at any single point during the previous year.
 - b. **Multiple Customer.** If Licensee purchases licenses based on a multiple Customer model, Licensee is acquiring licenses to be used for any of Licensee’s Customers. Licenses not identified as “Multiple Customer” or “Package Factory” licenses on an Order Confirmation may not be used for multiple Customers and will be governed by Section 4.3 below.
 - c. **Named Customer.** If Licensee purchases licenses based on a named Customer model, Licensee may use the Software for the named Customer identified in the applicable Order Confirmation, provided that Licensee may not use the Software for any Customer other than the Customer identified in the applicable Order Confirmation.
5. **License Restrictions.**
 - a. Software may not be left behind at Customer’s site or on Customer’s systems once the Packaging Services are completed. If computers, servers or networks on which the Software is installed are no longer owned or leased by Licensee, Licensee must remove the Software from such computers, servers or networks.
 - b. Licensee may not use the Software for the purpose of creating installation packages for distribution outside of Customer’s organization.
 - c. Licensee may not use the Software for its own Internal Purposes.
6. **Licensee Obligations.**
 - a. **Representations.** Licensee shall not make any representations, guarantees or warranties of any type with respect to the specifications, features, capabilities or otherwise concerning the Software which are in addition to or inconsistent with those set forth in the product descriptions or promotional materials delivered by Flexera to Licensee hereunder. Licensee may not make any representation, warranty or guarantee by or on behalf of Flexera. Licensee shall represent Flexera and its Software in a positive and professional manner at all times. Licensee is not to re-brand or otherwise represent the software as anything other than [Product Name] by Flexera Software LLC without express written approval from Flexera. This includes, but is not limited to, reports, splash screens, documentation and all other intellectual property.
 - b. **Business Practices.** Licensee agrees not to engage in any deceptive, misleading, illegal or unethical practices that may be detrimental to Flexera or its Software and agrees to comply with all applicable federal, state and local laws and regulations (including, without limitation, data protection, privacy and import and export compliance laws and regulations) in connection with its performance under this Agreement. Licensee further agrees to notify Flexera sixty (60) days in advance if Licensee intends to sell, represent or promote any products competitive with the Software.
 - c. **Licensee Indemnity.** Licensee will defend, indemnify and hold harmless Flexera from and against any loss, cost, liability or damage, including attorneys’ fees, for which Flexera becomes liable arising from or relating to: (a) any breach by Licensee of any term of this Agreement, (b) the issuance by Licensee of any warranty or representation not authorized in writing by Flexera or (c) any other act or omission of Licensee in connection with the marketing or distribution of the Software under this Agreement.



- d. Packaging Services Site. Licensee shall identify, upon Flexera's request, the Customer and the site of the performance of the Packaging Services for such Customer for each applicable license.
 - e. Notice of Termination of Packaging Services for Named Customer. In the event Packaging Services expire or are terminated for a particular Customer, Licensee may be required to notify Flexera of such expiration or termination within thirty (30) days of the effective date of such expiration or termination.
 - f. Flow-Through of Terms. Licensee shall enter into an agreement with a Customer that is equally as protective of the Software as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to the Software of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to the Software in the same manner as Licensee enforces such agreement with respect to Licensee's own intellectual property, which shall be at least in a reasonable manner. In any event, Flexera and Licensee will reasonably cooperate on actions to be taken to enforce breaches of Flexera's intellectual property rights against a Customer.
7. Expiration.
- a. Expiration of Licenses. Upon completion or termination of the Packaging Services for a Customer (the "Expiration Date"), Licensee will cease using the applicable licenses for such Customer. If the Software was installed and used at Customer's site, Licensee will uninstall the Software from any equipment used for the provision of Packaging Services to such Customer and will provide Flexera with certification thereof. For the purpose of clarity, Licensee may not transfer licenses to Customers without Flexera's prior written consent, which may be withheld in Flexera's sole discretion.
 - b. Effect of Termination. In no event will Licensee be entitled to receive a refund of any licensee fees paid prior to the applicable termination date, and Licensee shall be responsible for the fees applicable for the remainder of the license term as if such license had not been terminated or expired.
8. Support and Maintenance. Flexera will have no support or maintenance obligations whatsoever to Customers.
9. Marketing and Trademarks.
- a. Marketing Materials. All marketing materials, demonstration copies of the Software (if applicable), and other materials provided by Flexera hereunder will remain the property of Flexera, and upon termination or expiration, such materials will be returned to Flexera within thirty (30) days.
 - b. Trademarks. Licensee may use Flexera's trademarks in connection with the Software. All displays of Flexera's trademarks that Licensee intends to use will conform to reasonable guidelines provided from time to time by Flexera. Flexera will have the right to approve all usage by Licensee of its trademarks. Licensee will not use any of Flexera's trademarks in conjunction with another trademark.

[END OF SCHEDULE 2]



**SCHEDULE 3
TERMS AND CONDITIONS FOR SOFTWARE LICENSE OPTIMIZATION PRODUCTS**

The terms of this Schedule 3 will apply to all Software License Optimization products licensed by Flexera to Licensee. Any terms not defined in this Schedule 3 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 3 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 3 and the Master Terms and Conditions, the terms included in this Schedule 3 will control. As of April 2018, the following products are considered "Software License Optimization products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 3:

FlexNet Manager Suite

FlexNet Manager Platform
FlexNet Manager for IBM
FlexNet Manager for Microsoft
FlexNet Manager for Oracle
FlexNet Manager for SAP
FlexNet Manager for Symantec
FlexNet Manager for VMware
Service Life Data Pack

FlexNet Manager for Engineering Applications

FlexNet Manager for Engineering Applications Foundation
FlexWrap
FlexNet Manager for Cloud Infrastructure
Workflow Manager
App Portal Enterprise Edition
App Broker for ServiceNow

FLEXNET MANAGER SUITE

1. **"Device"** means any physical or virtual device for which any function is performed by the Software (including but not limited to scanning, delivering, installing, updating, migrating or repairing any computer program or data file; or scanning, monitoring, tracking, or reporting on the status, history, or security vulnerabilities of any software or hardware components or software licenses on or used by the device).
2. **"Internal Purposes"** means management of Devices located within Licensee's own systems.
3. **"User"** means the individuals within Licensee's organization who access any software application or database on an SAP system or SAP may deem as a user. For the purpose of certification as set forth in the Agreement, the number of Users includes all Users who have accessed any such software application or database at any point during the previous year. For the purpose of clarity, a single User may not be more than one individual.
4. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of Devices of any third party requires a service provider license.
5. **IBM Cognos.** Flexera may provide Licensee rights to use certain IBM Cognos programs embedded within the Software solely in conjunction with the Software. In addition to Licensee's obligations hereunder, Licensee shall also comply with the terms and conditions contained at <http://support.installshield.com/kb/view.asp?articleid=Q203636>.

**FLEXNET MANAGER FOR ENGINEERING APPLICATIONS,
FLEXNET MANAGER FOR ENGINEERING APPLICATIONS FOUNDATION AND FLEXWRAP**

1. **"FlexWrap Author"** means, in relation to FlexWrap, the individual within Licensee's organization who accesses the FlexWrap application for preparing internal software applications to have FlexNet licensing capabilities that includes but is not limited to optional enforcement of concurrent limits on application usage. For the purpose of certification as set forth in the Agreement, the number of FlexWrap Authors includes all FlexWrap Authors who accessed FlexWrap at any point during the previous year. For the purpose of clarity, a single FlexWrap Author may not be more than one individual.
2. **"Internal Purposes"** means management of applications located within Licensee's own systems.
3. **"User"** means the individuals within Licensee's organization who access a license server for which FlexNet Manager for Engineering Applications is providing reporting services. For the purpose of certification as set forth in the Agreement, the number of Users includes all Users who have accessed such license server at any point during the previous year. For the purpose of clarity, a single User may not be more than one individual.
4. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of applications of any third party requires a service provider license.
5. **IBM Cognos.** Flexera may provide Licensee rights to use certain IBM Cognos programs embedded within the Software solely in conjunction with the Software. In addition to Licensee's obligations hereunder, Licensee shall also comply with the terms and conditions contained at <http://support.installshield.com/kb/view.asp?articleid=Q203636>. IBM Cognos functionality is not provided with FlexNet Manager for Engineering Applications Foundation.
6. **FlexNet Manager for Engineering Applications.** Each license for FlexNet Manager for Engineering Applications permits the management and administration of license servers and processing of reports associated with the licensed number of Users within Licensee's organization who access the software application identified by a distinct vendor daemon name(s) ("Vendor Daemon"). FlexNet Manager for Engineering Applications may be installed on a single named server identified by a distinct server identification ("HostID"). A set of redundant servers is considered a "single named server" for purposes of this license.
 - a. **HostID Changes.** The designated HostID may be changed only once during the Support and Maintenance period while Licensee is under a maintenance contract without additional cost to Licensee. Additional changes may require an additional fee.



- b. Vendor Daemon Substitutions. The designated Vendor Daemon(s) may not be substituted unless the underlying vendor changes the Vendor Daemon. In such instances, there is no extra charge for exchanging the Vendor Daemon.
7. FlexWrap. Each license for FlexWrap permits the “wrapping” of an unlimited number of internally used applications to provide FlexNet licensing capabilities for such applications and a license server to manage license check-ins and check-outs for these applications. FlexWrap provides application usage management and optional enforcement of concurrent limits on application usage. The license server may be installed on a single named server identified by a HostID. A set of redundant servers is considered a “single named server” For the purpose of this license. This license does not permit applications to be wrapped and distributed externally to any other parties. FlexWrap may be used by the total number of FlexWrap Authors within Licensee’s organization, and only if that total number of FlexWrap Authors does not exceed the License Level set forth in the applicable Order Confirmation.

FLEXNET MANAGER FOR CLOUD INFRASTRUCTURE

1. **“Instance”** means any physical or virtual device for which any function is performed by the Software (including but not limited to scanning, delivering, installing, updating, migrating or repairing any computer program or data file; or scanning, monitoring, tracking, or reporting on the status or history of the device, any software or hardware components or software licenses on or used by the device). For the purpose of certification as set forth in the Agreement, the number of Instances is the average number of Instances per month during the previous year.
2. **“Internal Purposes”** means management of Instances for Licensee’s own business purposes.
3. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee’s payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of Instances for the benefit of any third party requires a service provider license.
4. IBM Cognos. Flexera may provide Licensee rights to use certain IBM Cognos programs embedded within the Software solely in conjunction with the Software. In addition to Licensee’s obligations hereunder, Licensee shall also comply with the terms and conditions contained at <http://support.installshield.com/kb/view.asp?articleid=Q203636>.

WORKFLOW MANAGER

1. **“Device”** means any physical or virtual device for which any function is performed by the Software (including but not limited to scanning, delivering, installing, updating, migrating or repairing any computer program or data file; or scanning, monitoring, tracking, or reporting on the status, history, or security vulnerabilities of any software or hardware components or software licenses on or used by the device).
2. **“Internal Purposes”** means management of Devices located within Licensee’s own systems.
3. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee’s payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of Devices of any third party requires a service provider license.

APP PORTAL LIMITED EDITION

1. **“Internal Purposes”** means management of applications located within Licensee’s own systems.
2. Grant of License. App Portal Limited Edition is a functionally limited version of the App Portal software and is intended specifically for use with Flexera’s AdminStudio software. Subject to all of the terms and conditions of this Agreement, Flexera grants Licensee a limited, internal use, non-exclusive, non-transferable license to use App Portal Limited Edition solely for Licensee’s Internal Purposes at Licensee’s site(s) only. Flexera grants Licensee the right to install and use App Portal Limited Edition for up to five (5) applications. For the purposes of this Section, App Portal Limited Edition also includes any Documentation of App Portal Limited Edition provided to Licensee under this Agreement.
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1. **“User”** means any individual that may request, have deployed to, or otherwise receive any application, package, or other software, or other IT or corporate resource or service, prepared using the Software. For the purpose of certification as set forth in this Agreement, the number of Users includes the highest number of Users that were in place at any point during the previous year.
2. **“Internal Purposes”** means management of applications located within Licensee’s own systems.
3. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee’s payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of applications of any third party requires a service provider license.



APP BROKER FOR SERVICENOW

1. **"User"** means any individual that may request, have deployed to, or otherwise receive any application, package, or other software, or other IT or corporate resource or service, prepared using the Software. For the purpose of certification as set forth in this Agreement, the number of Users includes the highest number of Users that were in place at any point during the previous year.
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3. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Management of applications of any third party requires a service provider license.

[END OF SCHEDULE 3]



SCHEDULE 4
TERMS AND CONDITIONS FOR SOFTWARE VULNERABILITY MANAGEMENT PRODUCTS

The terms of this Schedule 4 will apply to all Software Vulnerability Management products licensed by Flexera to Licensee. Any terms not defined in this Schedule 4 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 4 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 4 and the terms of the Master Terms and Conditions, the terms included in this Schedule 4 will control. As of April 2018, the following products are considered "Software Vulnerability Management products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 4:

Corporate Software Inspector
Vulnerability Intelligence Manager
Software Vulnerability Research
Software Vulnerability Manager

I. DEFINITIONS

1. "**Device**" means any physical or virtual device for which any function is performed by the Software (including but not limited to scanning, delivering, installing, updating, migrating or repairing any computer program or data file; or scanning, monitoring, tracking, or reporting on the status, history, or security vulnerabilities of any software or hardware components or software licenses on or used by the device). For the purpose of certification as set forth in the Agreement, the number of Devices includes the highest number of Devices that were in place at any point during the previous year.

II. GENERAL TERMS

This Article II sets forth the general terms and conditions applicable to all Software Vulnerability Management products.

1. **Copies.** Notwithstanding Section II.1.e. of the Agreement, Licensee may not make copies of the Software without prior written approval from Flexera.
2. **Disclaimer.** While the Software is intended to detect and disclose vulnerabilities in Licensee's system, Flexera makes no representation or warranty that the Software will detect all vulnerabilities.

III. INTERNAL USE LICENSE RIGHTS AND OBLIGATIONS

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1. "**Internal Purposes**" for Corporate Software Inspector means reporting of vulnerabilities related to applications located within Licensee's own systems.
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SOFTWARE VULNERABILITY RESEARCH

3. "**Internal Purposes**" for Software Vulnerability Research means assisting with the identification, management and/or remediation of vulnerabilities in applications deployed or to be deployed within Licensee's own systems.
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SOFTWARE VULNERABILITY MANAGER

1. "**Internal Purposes**" for Corporate Software Inspector means reporting of vulnerabilities related to applications located within Licensee's own systems.
2. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for Internal Purposes only, (i) Software, in accordance with the Documentation, and (ii) Documentation. Providing advisories



or vulnerability updates or reporting (x) on applications located within third party systems or (y) to third parties other than Contractors, is prohibited.

IV. SERVICE PROVIDER USE LICENSE RIGHTS AND OBLIGATIONS

This Article IV sets forth the terms and conditions under which Licensee has licensed quantities of the Software for use in the delivery of IT Services to its Customers, as those terms are defined below.

1. **Definitions.**
 - a. **"Customers"** means the customers of Licensee for which Licensee has purchased a service provider license to use the Software to provide IT Services. Licensee may not be its own Customer. Licensee shall be solely responsible for the Customer relationship; Flexera will have no obligations whatsoever to Customers.
 - b. **"IT Services"** means those services that Licensee provides to Customers utilizing the Software for the purpose of managing software vulnerabilities within Customer's internal organization.
2. **Grant of License.** Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee, solely for use with respect to the specific Customer identified and term specified in such Order Confirmation, a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for the sole purpose of providing IT Services to Customer for such Customer's Internal Purposes, (i) Software, in accordance with the Documentation, and (ii) Documentation. For the purpose of this clause, the definition of "Internal Purposes" replaces "Licensee" with "Customer".
3. **Installation.** Licensee may install and operate the Software at a Customer location.
4. **Named Customer.** Licensee may use the Software for the named Customer identified in the applicable Order Confirmation. Licensee may not use the Software for any Customer other than the Customer identified in the applicable Order Confirmation.
5. **License Restrictions.**
 - a. Software may not be left behind at Customer's site or on Customer's systems once the IT Services are completed. If computers, servers or networks on which the Software is installed are no longer owned or leased by Licensee, Licensee must remove the Software from such computers, servers or networks.
 - b. Licensee may not use the Software for the purpose of distribution outside of Customer's organization.
 - c. Licensee may not use the Software for its own Internal Purposes.
6. **Licensee Obligations.**
 - a. **Representations.** Licensee shall not make any representations, guarantees or warranties of any type with respect to the specifications, features, capabilities or otherwise concerning the Software which are in addition to or inconsistent with those set forth in the product descriptions or promotional materials delivered by Flexera to Licensee hereunder. In no event shall Licensee make any representation, warranty or guarantee by or on behalf of Flexera. Licensee shall represent Flexera and its Software in a positive and professional manner at all times. Licensee is not to re-brand or otherwise represent the software as anything other than [Product Name] by Flexera Software LLC without express written approval from Flexera. This includes, but is not limited to, reports, splash screens, documentation and all other intellectual property.
 - b. **Business Practices.** Licensee agrees not to engage in any deceptive, misleading, illegal or unethical practices that may be detrimental to Flexera or its Software and agrees to comply with all applicable federal, state and local laws and regulations (including, without limitation, data protection, privacy and import and export compliance laws and regulations) in connection with its performance under this Agreement. Licensee further agrees to notify Flexera sixty (60) days in advance if Licensee intends to sell, represent or promote any products competitive with the Software.
 - c. **Licensee Indemnity.** Licensee will defend, indemnify and hold harmless Flexera from and against any loss, cost, liability or damage, including attorneys' fees, for which Flexera becomes liable arising from or relating to: (a) any breach by Licensee of any term of this Agreement, (b) the issuance by Licensee of any warranty or representation not authorized in writing by Flexera or (c) any other act or omission of Licensee in connection with the marketing or distribution of the Software under this Agreement.
 - d. **IT Services Site.** Licensee shall identify the Customer and the site of the performance of the IT Services for such Customer for each applicable license. In the event Licensee fails to identify the Customer, the first customer of Licensee for whom Licensee uses the Software will be deemed the "Customer" for the purpose of the license.
 - e. **Notice of Termination of IT Services for Named Customer.** In the event IT Services expire or are terminated for a particular Customer, Licensee may be required to notify Flexera of such expiration or termination within thirty (30) days of the effective date of such expiration or termination.
 - f. **Flow-Through of Terms.** Licensee shall enter into an agreement with a Customer that is equally as protective of the Software as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to the Software of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to the Software in the same manner as Licensee enforces such agreement with respect to Licensee's own intellectual property, which shall be at least in a reasonable manner. In any event, Flexera and Licensee will reasonably cooperate on actions to be taken to enforce breaches of Flexera's intellectual property rights against a Customer.
 - g. **Certification.** Within thirty (30) days of Flexera's request and no more than once per year, Licensee shall provide a written certification of its compliance with the applicable License Level for the immediately preceding twelve (12) month period.
7. **Expiration.**
 - a. **Expiration of Licenses.** Upon completion or termination of the IT Services for a Customer (the "Expiration Date"), Licensee will cease using the licenses applicable to such Customer. If the Software was installed and used at Customer's site, Licensee will uninstall the Software from any equipment used for the provision of IT Services to such Customer and will provide Flexera with certification thereof. For the purpose of clarity, Licensee may not transfer licenses to Customers without Flexera's prior written consent, which may be withheld in Flexera's sole discretion.
 - b. **Effect of Termination.** In no event will Licensee be entitled to receive a refund of any license fees paid prior to the applicable



termination date, and Licensee shall be responsible for the fees applicable for the remainder of the license term as if such license had not been terminated or expired.

8. Support and Maintenance. Flexera will have no support or maintenance obligations whatsoever to Customers.
9. Marketing and Trademarks.
 - a. Marketing Materials. All marketing materials, demonstration copies of the Software (if applicable), and other materials provided by Flexera hereunder will remain the property of Flexera, and upon termination or expiration, such materials will be returned to Flexera within thirty (30) days.
 - b. Trademarks. Licensee may use Flexera's trademarks in connection with the Software. All displays of Flexera's trademarks that Licensee intends to use will conform to reasonable guidelines provided from time to time by Flexera. Flexera will have the right to approve all usage by Licensee of its trademarks. Licensee will not use any of Flexera's trademarks in conjunction with another trademark.

[END OF SCHEDULE 4]



SCHEDULE 5
TERMS AND CONDITIONS FOR SOFTWARE COMPOSITION ANALYSIS PRODUCTS

The terms of this Schedule 5 will apply to all Software Composition Analysis products licensed by Flexera to Licensee. Any terms not defined in this Schedule 5 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 5 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 5 and the terms of the Master Terms and Conditions, the terms included in this Schedule 5 will control. As of April 2018, the following products are considered "Software Composition Analysis products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 5:

FlexNet Code Insight

1. **"Developer"** means the individuals within Licensee's organization who contribute code to the applications that will be scanned or analyzed by the Software. For the purpose of certification as set forth in the Agreement, the number of Developers includes all Developers who have contributed code to any scanned or analyzed application at any point during the previous year.
2. **"Internal Purposes"** means scanning and analyzing applications located within Licensee's (including Affiliates) own systems.
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[END OF SCHEDULE 5]



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FlexNet Licensing

FlexNet Publisher Platforms
FlexNet Publisher Reference Linux Platforms
FlexNet Embedded Platforms
FlexNet Embedded Reference Linux Platforms
FlexNet Embedded Porting Kit

FlexNet Operations

Advanced Lifecycle Management Module
Advanced Organization Module
FlexNet Operations Electronic Delivery
Usage Management Module
Cloud Licensing Service Module
Additional Instance
Customer Growth
Cloud Monetization API

FlexNet Connect

FlexNet Connect Instrumentation / Telemetry Module
FlexNet Connect Platforms
FlexNet Connect Reference Linux Platform
FlexNet Connect Porting Kit
FlexNet Connect Cloud Enterprise Update Management Module

Standalone Cloud Electronic Delivery

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 - d. use the FlexNet Connect Software with a Licensee product where the primary functionality of such Licensee product when taken as a whole is substantially similar to the functionality of the FlexNet Connect Software.
5. Reference Linux Platforms.
 - a. For any FNC Platforms any identified on an Order Confirmation that include the phrase "reference Linux" in its name on the applicable Order Confirmation (the "FlexNet Connect Reference Linux Platforms"), Licensee may implement such FNC Platform(s) on the processor set listed in the FlexNet Connect Reference Linux Platform name in combination with any Linux operating systems other than any of the Linux operating system FNC Platforms available from Flexera as of the date of the applicable Order Confirmation.
 - b. Support and Maintenance is only available on the FlexNet Connect Reference Linux Platforms licensed regardless of the Linux platform on which Licensee implements FlexNet Connect. Accordingly, all requests for support related to a Linux platform must be reproducible by Licensee on the licensed FlexNet Connect Reference Linux Platform. In the event the support request is reproducible on the FlexNet Connect Reference Linux Platform, Flexera will provide support to Licensee. In the event the support request is not reproducible on the FlexNet Connect Reference Linux Platform, Flexera will have no obligation to provide support to Licensee with respect to such request.
6. Porting Kits.
 - a. For any FlexNet Connect Porting Kit identified on an Order Confirmation, Licensee is granted the right to use the FlexNet Connect Porting Kit in order to port the FlexNet Connect Software to any platform other than a FNC Platform available from Flexera as of the date of the applicable Order Confirmation (each a "Licensee Ported FNC Platform"). Licensee acknowledges that Flexera will retain all ownership in and to the FlexNet Connect Porting Kit and the port to the Licensee Ported FNC Platform(s).
 - b. Licensee understands and acknowledges that Support and Maintenance is only available on the FNC Platform(s) licensed and will not be provided for any Licensee Ported FNC Platforms. Accordingly, all requests for support on the Licensee Ported FNC Platforms must be reproducible by Licensee on the FNC Platform(s) licensed or, if no FNC Platform is licensed, on one of the CentOS or Debian Linux FNC Platforms available from Flexera at the time of Licensee's request for support (each a "FlexNet Connect Reference Platform"). In the event the support request is reproducible on an applicable FlexNet Connect Reference Platform, Flexera will provide support to Licensee. In the event the support request is not reproducible on an applicable FlexNet Connect Reference Platform, Flexera will have no obligation to provide support to Licensee with respect to such request.

FLEXNET CONNECT ON-PREMISES SOFTWARE

1. Definitions.
 - a. "**Licensee FNC Software Products**" means all of Licensee's software products with which Licensee directly or indirectly uses the FlexNet Connect Software to provide updates, instruments or messages to its customers and end users.
2. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee, solely for Licensee's Internal Purposes at Licensee's site(s) only, a non-transferable, non-sublicensable, non-exclusive license to use solely with Licensee FNC Products that generate revenue and that generate FNC Revenue in an amount that does not exceed the License Level, (i) the Software, in accordance with the Documentation, and (ii) Documentation.
3. Delivery. The FlexNet Connect Software consists of both a server element (the "Back Office Software") and a client element (the "Client Software"). Licensee may install the Back Office Software on Licensee's computers for use only by Licensee's employees and Contractors. Licensee may make a copy of the Back Office Software solely for back-up or testing purposes. The Client Software shall be deemed a "redistributable" and subject to the limitations set forth in the applicable Order Confirmation.

FLEXNET CONNECT PROVIDED VIA THE CLOUD SITE

1. Definitions.
 - a. "**Cloud Site**" means the website hosted by Flexera through which Licensee may access Cloud Software.
 - b. "**Licensee FNC Software Products**" means all of Licensee's software products with which Licensee directly or indirectly uses the FlexNet Connect Software.
2. Grant of License. Subject to all of the terms and conditions of this Agreement and upon Licensee's payment of the fees shown on the invoice and acceptance of this Agreement, Flexera grants Licensee, solely for Licensee's Internal Purposes at Licensee's site(s) only, a non-transferable, non-sublicensable, non-exclusive license to use solely with Licensee FNC Products that generate revenue and that generate



FNC Revenue in an amount that does not exceed the License Level, (i) the Software, in accordance with the Documentation, and (ii) Documentation.

3. Delivery. The FlexNet Connect Software consists of both a server element (the "Back Office Software") and a client element (the "Client Software"). Flexera will make the Back Office Software available to Licensee remotely via a Cloud Site.
4. Licensee Grant. Licensee grants to Flexera the right to reproduce, copy, host and distribute the Licensee FNC Products as necessary for Flexera to implement and provide the Cloud Site as set forth herein. Notwithstanding the foregoing, Licensee or its licensors own all right, title and interest in and to the Licensee FNC Products and related Licensee documentation, and in all proprietary and intellectual property rights related thereto, including but not limited to patent, copyright, trademark and trade secret rights wherever arising in the world. Subject to the limited licenses granted herein, no such rights are transferred to Flexera hereunder. Flexera will not use, copy, modify, distribute, or provide any third party access to the Licensee FNC Products except as contemplated under this Agreement. Flexera will not decompile, disassemble or reverse engineer the Licensee FNC Products. Licensee warrants that (i) it has the authority to grant to Flexera the license described herein and (ii) it shall use commercially available anti-virus software to test the Licensee FNC Products for viruses, worms, Trojan horses or other harmful, malicious or destructive code and such test has shown no such viruses, worms, Trojan horses or other harmful, malicious or destructive code.
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6. For any FlexNet Connect Cloud Enterprise Update Management Modules identified on an Order Confirmation, Flexera grants to Licensee the right to provide each FNC End User with limited access to the Cloud Site for the limited purpose of managing such FNC End User's assets and entitlements to Licensee FNC Products. Notwithstanding the foregoing, Flexera or its licensors own all right, title and interest in and to the Cloud Site and related documentation, and in all proprietary and intellectual property rights related thereto, including but not limited to patent, copyright, trademark and trade secret rights wherever arising in the world. Subject to the limited licenses granted herein, no such rights are transferred to Licensee hereunder. Licensee will not use, copy, modify distribute, or provide any third party access to the Cloud Site (including their user interfaces) except as provided in this Agreement.

[END OF SCHEDULE 6]



SCHEDULE 7
TERMS AND CONDITIONS FOR DATA PLATFORM PRODUCTS

The terms of this Schedule 7 will apply to all Data Platform products licensed by Flexera to Licensee. Any terms not defined in this Schedule 7 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 7 will be in addition to the terms included in the Master Terms and Conditions, provided that in the event of a conflict between the terms included in this Schedule 7 and the Master Terms and Conditions, the terms included in this Schedule 7 will control. As of April 2018, the following products are considered "Data Platform products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 7:

Analyze
Normalize
Technopedia Catalog

1. Definitions.
 - a. **"Content"** means the content, or any subset thereof, contained in the Technopedia Catalog.
 - b. **"Device"** means any IP-connected device that is not a Server such as desktops, routers, switches, etc. for which any function is performed with the Content. For the purpose of certification as set forth in the Agreement, the number of Devices includes the highest number of Devices, Servers or End-Points that were in place at any point during the previous year.
 - c. **"End Point"** means any Server and/or Device, or the combination thereof.
 - d. **"End Use"** means the final work product resulting from Licensee's combination of the Content with Licensee's asset management data as necessary to enhance such Licensee's data, as permitted under the Agreement and Order Confirmation.
 - e. **"Internal Purposes"** means the cataloging, reporting and management of Licensee's hardware and software applications.
 - f. **"Server"** means any computer server (physical or virtual) for which any function is performed with the Content.
 - g. **"Technopedia® Catalog"** means the proprietary compilation of content or any subset thereof. Technopedia Catalog is a 'compilation' as such term is defined in 17 U.S. Code Section 101 (the "Copyright Act of 1976"). Flexera owns a copyright in the selection, coordination, arrangement and enhancement of such Technopedia Catalog, including the taxonomy employed by Flexera to organize the Technopedia Catalog. Licensee does not acquire, and does not claim, any rights in the Content itself apart from the End Use.
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3. Limited Use. An Order Confirmation may designate a license as "Limited Use". Any licenses with such designation will be limited to the specific use case identified in the Order Confirmation.
4. Support and Maintenance Exclusion. Support and Maintenance does not apply to the Content; however, Flexera will update the Content on a regular basis, in its discretion.
5. Warranty Exclusion. The limited warranties in Section 10 of the Master Terms and Conditions do not apply to the Content.



SCHEDULE 8
TERMS AND CONDITIONS FOR EVALUATION SOFTWARE, FREE SOFTWARE, AND NFR SOFTWARE

The use of Software received by Licensee for purposes of evaluation (“**Evaluation Software**”), regardless of how labeled, any Software provided at no charge (“**Free Software**”), and any software that is identified as a “Not for Resale” or “NFR” license (“**NFR Software**”) will be governed by the terms set forth in this Schedule 8. Any terms not defined in this Schedule 8 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 8 will be in addition to the terms included in the main body of the Agreement, provided that in the event of a conflict between the terms included in this Schedule 8 and the terms of the main body of the Agreement, the terms included in this Schedule 8 will prevail.

1. **Grant of License.** Subject to all of the terms and conditions of this Agreement, Flexera grants Licensee:
 - a. **For Evaluation Software:** during the Evaluation Period, a limited, internal use, non-exclusive, non-transferable license to use the Software solely to evaluate its suitability for Licensee’s internal business requirements at Licensee’s site(s) only. Without limiting the foregoing, Licensee may not use the Software during the Evaluation Period to create or deploy any application, package, or other software or for any other purpose. This license may be terminated by Flexera at any time upon notice to Licensee and will automatically terminate, without notice, upon the first to occur of the following: (a) the completion of Licensee’s evaluation of the Software or (b) the expiration of the Evaluation Period. Except as otherwise expressly set forth herein or in the applicable Order Confirmation, the license does not include source code.
 - b. **For Free Software:** a limited, internal use, non-exclusive, non-transferable license to use the Software for Licensee’s internal business requirements at Licensee’s site(s) only. Except as otherwise expressly set forth herein or in the applicable Order Confirmation, the license does not include source code.
 - c. **For NFR Software:** a temporary, limited, internal use, non-exclusive, non-transferable license to use NFR Software solely for the purposes of training, education, and support for Licensee’s internal personnel. Without limiting the foregoing, Licensee may not use NFR Software to create or deploy any application, package, or other software, manage any device, or for any other purpose. This license may be terminated by Flexera at any time upon notice to Licensee.
2. **Evaluation Period.** If Licensee has received the Software for purposes of evaluation, regardless of how labeled, the use of the Software is limited to a specified period of time, as detailed in the email accompanying the download instructions, or if not specified in such email, twenty one (21) days from Licensee’s acceptance of this Agreement (the “Evaluation Period”).
3. **Limited Use.** Portions of the full-use version of the Software may be withheld or unusable. Full use of the Software may be restricted by technological protections.
4. **No Support and Maintenance.** Flexera will have no Support and Maintenance obligation to Licensee for unless otherwise agreed by the parties.
5. **Disclaimer of Warranty.** **EVALUATION SOFTWARE, FREE SOFTWARE, AND NFR SOFTWARE ARE PROVIDED ON AN “AS IS” BASIS. NEITHER FLEXERA NOR ITS SUPPLIERS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. LICENSEE MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTER OF (I) THE STATUTORILY REQUIRED PERIOD OR (II) THIRTY (30) DAYS FROM LICENSEE’S ACCEPTANCE OF THIS AGREEMENT.**
6. **Limitation of Liability.** **IN NO EVENT WILL FLEXERA BE LIABLE FOR ANY DAMAGES, INCLUDING LOST PROFITS OR DATA, OR OTHER INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE OR ANY DATA SUPPLIED THEREWITH, EVEN IF FLEXERA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA’S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**
7. **Termination.** Licensee’s license may be terminated by Flexera at any time immediately upon notice to Licensee. In the event of termination, Licensee must cease using the Software, destroy all copies of the Software (including copies in storage media), if applicable, and certify such destruction to Flexera. This requirement applies to all copies in any form, partial or complete. Upon the effective date of any termination, Licensee relinquishes all rights granted under this Agreement.

[END OF SCHEDULE 8]



**SCHEDULE 9
TERMS AND CONDITIONS FOR TECHNICAL ACCOUNT MANAGER**

This Schedule 9 describes the Technical Account Manager (“TAM”) services that may be purchased by Licensee. Any terms not defined in this Schedule 9 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 9 will be in addition to the terms included in the main body of the Agreement, provided that in the event of a conflict between the terms included in this Schedule 9 and the terms of the main body of the Agreement, the terms included in this Schedule 9 will prevail.

1. **TAM Overview.** The TAM provides focused account management for all Licensee service related issues. The TAM oversees all Licensee service activities and provides consolidated information for all technical support issues. This personalized point-of-contact works to enable Flexera in partnership with Licensee to deliver on agreed expectations.
2. **TAM Scope.** The products supported by the TAM will be identified in the applicable Order Confirmation. The TAM works closely with Licensee staff to perform the following tasks:
 - a. **Communication and Reporting**
 - i. Conducts weekly open incident reviews with Licensee.
 - ii. Provides monthly incident activity reports on bugs and enhancements.
 - iii. Provides annual onsite executive briefing (Annual Business Review) at the designated Licensee facility. The TAM provides a report representing ongoing projects, open issue, enhancements, bugs, product road maps, key performance indicators, release dates and improvement recommendations. The executive briefing occurs at the designated site as agreed by Flexera and Licensee.
 - iv. The TAM in conjunction with designated Licensee personnel sets the agenda for each meeting, which will include, but not be limited to, topics to be discussed, Flexera attendees, Licensee attendees and any other requirements to confirm the correct teams are involved.
 - v. Attends regular review meetings with Licensee operational personnel and senior management that may fall outside defined weekly, monthly and quarterly meetings. These meetings may include any levels of Licensee staff (Operational and Management).
 - b. **Proactive Support**
 - i. Maintains a high level of awareness of the account and identify issues potentially affecting the Flexera product environment.
 - ii. Leverages Flexera industry practice knowledge to help Licensee optimize the use of Flexera applications.
 - iii. Manages the processing and implementation of bugs and enhancements.
 - iv. Identifies training gaps and suggests documentation and Flexera tools to increase efficiency and help optimize the use of Flexera products.
 - c. **Problem Management**
 - i. The TAM confirms that the appropriate resource is assigned to each incident, drives escalation when necessary, and follows up to confirm resolution. The specific responsibilities include:
 - ii. Reviewing open incident inquires and facilitating resolution.
 - iii. Providing proper response to high severity incidents is in accordance with Licensee maintenance contract and facilitating a resolution.
 - iv. Acting as primary point-of-contact for all call escalations and critical incident reporting.
3. **Out of Scope.** Activities outside the scope of the TAM include, but are not limited to:
 - a. Project work managed by a Flexera Project Manager.
 - b. Multiple, basic installation services requiring project management services.
 - c. Installing and configuring of Flexera applications.
 - d. Managing new application implementations.
 - e. Any chargeable professional services specialist functions.
 - f. Any application or host system tasks that encompass coding, scripting, application analysis, system performance, troubleshooting, or application logins.
 - g. The TAM can be engaged prior to or after an Incident is open, but will have no responsibility for opening an Incident.
 - h. The TAM does not ensure that any or every issue that is raised will be or can be resolved. The TAM provides Licensee with a focal point and advocate for the issues and enhancements requested by Licensee. As a result, Flexera makes no guarantee or warranty to be able to solve or resolve any specific issue.
4. **TAM Deliverables.** Flexera will provide Licensee with the following deliverables:

Phase	Deliverable
Kick Off	TAM introduction
Weekly	Open incident summary
Monthly	Incident activity reports /Management meeting
Annually	Onsite executive summary (Annual Business Review)

5. **Licensee Obligations.** Prior to and/or during the engagement, Licensee must:
 - a. Continue to follow the standard channels for opening an Incident (email/phone/web).
 - b. Nominate a primary technical person and respective backup technical person for all communications with the TAM on operational



issues.

c. Keep the TAM apprised of business, organizational, and technical issues that may have direct impact on the effective delivery of the TAM's obligations.

6. **Escalations.** The TAM will be the conduit for all escalations, which will include escalations on Incidents, professional services work or any other issues associated with Flexera. During times of leave/holidays, the TAM will provide Licensee with the contact details of the person/team that will cover the different aspects of the role in his/her absence. In the event of a Severity 1 problem, which is defined as a problem that causes an urgent, critical impact that impairs the performance of substantially all major functions of the Software or a Licensee product, Licensee should contact the TAM immediately via a phone call followed by an email.

	Escalation level			
	1	2	3	4
Licensee IT	Operations Team	Management team	Senior Vice president level	CEO,CIO level
Flexera	Technical Account Manger	Vice president of Account Management	Senior Vice president of Product and Services	President and CEO

[END OF SCHEDULE 9]