



## END-USER LICENSE AGREEMENT

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### I. DEFINITIONS

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

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"**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.

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"**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.

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"**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.

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  - 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](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.
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  - 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.

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    - 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.
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  - 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.
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  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.
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  - 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.



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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.
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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.
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  - b. [Schedule 2](#) – Terms and Conditions for Application Readiness Products
  - c. [Schedule 3](#) – Terms and Conditions for Software License Optimization Products
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**[END OF MASTER TERMS AND CONDITIONS]**



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InstallShield Professional  
InstallShield Premier  
InstallShield Standalone Build**

**InstallShield Lite  
InstallAnywhere  
InstallAnywhere Standalone Build**

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**[END OF SCHEDULE 1]**



**SCHEDULE 2**  
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**AdminStudio Standard**  
**AdminStudio Professional**  
**AdminStudio Enterprise**  
**AdminStudio AppRisk Module**

**AdminStudio Limited Edition**  
**Workflow Manager**  
**WiseScript Editor**

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  - 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 for Clients  
FlexNet Manager for Data Centers  
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 (excluding Servers) 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. **"Server"** means any computer server (physical or virtual) for which any function is performed with the Software. For the purpose of certification as set forth in the Agreement, the number of Servers includes the highest number of Servers that were in place at any point during the previous year.
4. **"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.
5. **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.
6. **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>.
7. **Prohibited use.** Scanning Servers using the FlexNet Manager for Clients Software is strictly prohibited. Licensee must purchase a license to the FlexNet Manager for Datacenter Software in order to inventory Servers.

**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.
3. **Disclaimer of Warranty.** APP PORTAL 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.
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 APP PORTAL 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).

#### **APP PORTAL ENTERPRISE EDITION**

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.
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.

**[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**

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

**CORPORATE SOFTWARE INSPECTOR**

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. Reporting on applications of any third party is prohibited.

**VULNERABILITY INTELLIGENCE MANAGER**

1. "**Internal Purposes**" for Vulnerability Intelligence Manager means assisting with the identification, management and/or remediation of vulnerabilities in applications deployed or to be deployed 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 (x) on applications located within third party systems or (y) to third parties other than Contractors, is prohibited.

**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 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 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.
3. **"User"** means the individuals who access the Software for the purposes of scanning or analyzing applications.
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. Scanning or analyzing applications of any third party requires a separate license.
5. **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.

**[END OF SCHEDULE 5]**



**SCHEDULE 6  
TERMS AND CONDITIONS FOR SOFTWARE MONETIZATION PRODUCTS**

The terms of this Schedule 6 will apply to all Software Monetization products licensed by Flexera to Licensee. Any terms not defined in this Schedule 6 will have the meanings ascribed to them in the Agreement. The provisions of this Schedule 6 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 6 and the Master Terms and Conditions, the terms included in this Schedule 6 will control. As of April 2018, the following products are considered "Software Monetization products" and such list may be updated from time to time by Flexera in its sole discretion without amending this Schedule 6:

**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**

**I. FLEXNET LICENSING**

**GENERAL TERMS AND CONDITIONS**

**1. Definitions.**

- a. **"Licensee End User"** means a unique combination of a single employee of Licensee and a single device used solely by said employee.
  - b. **"Licensee FNL Hardware Products"** means the hardware products developed by or for Licensee that will be directly or indirectly enabled, protected or managed by the FlexNet Licensing Software. A Licensee hardware product is not a Licensee FNL Hardware Product merely because the FlexNet Licensing Software or a Licensee FNL Software Product is installed upon it; rather a Licensee hardware product must be enabled, protected or managed by the FlexNet Licensing Software for it to be a Licensee FNL Hardware Product.
  - c. **"Licensee FNL Products"** means collectively, the Licensee FNL Software Products and the Licensee FNL Hardware Products.
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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:
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  - 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.
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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
<b>Kick Off</b>	TAM introduction
<b>Weekly</b>	Open incident summary
<b>Monthly</b>	Incident activity reports /Management meeting
<b>Annually</b>	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 appraised 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]**