

**FLEXERA SOFTWARE**  
**END-USER LICENSE AGREEMENT**

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“**Cloud Site**” means the website hosted by Flexera Software through which Licensee may access Cloud Software.

“**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) could reasonably be construed to be confidential.

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

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

“**Licensee 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.

“**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 Software 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”.

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

“**Services**” means professional consulting services. Services shall 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 Software 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 Software.

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

**“Updates”** means patches, additions, modifications, and new versions of the Software incorporating such patches, additions and modifications that are provided to Licensee by Flexera Software and that are not included in the initial delivery of the Software. Updates do not include additions or modifications that Flexera Software considers to be a separate product or for which Flexera Software 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 Software (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 terms 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.
- c. Delivery. If Licensee licenses On-Premise Software, the On-Premise Software and associated Documentation shall be delivered by electronic means. If Licensee licenses Cloud Software, Licensee will receive access to the Cloud Software via the Cloud Site.
  - i. Cloud Site. The Cloud Site shall be part of a multi-tenant hosted environment and shall be provided subject to the Service Levels set forth in Schedule 7. Flexera Software will not materially diminish such Service Levels during the Subscription Period.
  - ii. Aggregate Usage Information. Flexera Software may aggregate information regarding Licensee’s use of the Cloud Site with information about use of the Cloud Site by Flexera Software’s other licensees, and may use such aggregated information to report on how the Cloud Site is used by Flexera Software’s licensees generally, for improvement and development of Flexera Software’s products, and for marketing purposes. In providing this aggregated information, Flexera Software shall not identify Licensee to any third party.
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- a. **Support and Maintenance.** Flexera Software shall provide the level of support and maintenance services (“**Support and Maintenance**”) set forth on the applicable Order Confirmation, if any, during such period as Licensee has paid the applicable fee. Support and Maintenance will be provided in accordance with Flexera Software’s then-current Support and Maintenance terms. Subscription license fees include Support and Maintenance for the duration of the Subscription Period.
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6. **Taxes.** Fees do not include taxes. If Flexera Software is required to pay any sales, use, GST, VAT, or other taxes in connection with Licensee's order, other than taxes based on Flexera Software's income, such taxes will be billed to and paid by Licensee. Licensee will make all payments of fees to Flexera Software free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of fees to Flexera Software will be Licensee's sole responsibility and consequently the amount of such fees will be increased such that the net fee received by Flexera Software will be the same as if such withholding taxes were not imposed, and Licensee will provide Flexera Software with official receipts issued by the appropriate taxing authority, or such other evidence as the Flexera Software may reasonably request, to establish that such taxes have been paid.
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8. **Warranty.**
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11. Controlling Law. For Licensees in North America and Latin America, this Agreement shall 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 shall 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 shall 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 shall 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 shall 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.
12. Survival. Any provision that by the very nature of which should survive shall survive any termination or expiration of this Agreement.
13. Compliance.
  - a. Verification/Audits. Upon Flexera Software's reasonable request, Licensee will furnish Flexera Software with a signed statement confirming whether the Software is being used by Licensee in accordance with this Agreement. 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 Software 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 shall be conducted during regular business hours at Licensee's facilities and shall not unreasonably interfere with Licensee's business activities. If an audit reveals an underpayment or that the Licensee's usage is greater than the License Level, then the 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 Software, (ii) Licensee materially breached this Agreement, or (iii) Licensee's usage is more than 5% over the License Level, then Licensee shall pay Flexera Software's reasonable costs of conducting the audit in addition to any fees due to Licensee's misrepresentation or material breach. Audits shall be conducted no more than once annually.
  - b. Validation of Use. In order to protect the Software from unauthorized use and in order to confirm Licensee's compliance with the license grants and restrictions set forth in this Agreement, the Software may contain validation procedures designed to detect and report to Flexera Software 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 Software (or its agents), performance information relating to the Software, and the terms of this Agreement shall be deemed "Trade Secrets" of Flexera Software without any marking or further designation.
  - b. Protection of Confidential Information. The Recipient shall 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 shall apply to Confidential Information marked or otherwise identified as or deemed to be a "Trade Secret".
- c. Usage Data. Licensee understands that Flexera Software 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 shall 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 shall be entitled to appropriate equitable relief in addition to whatever other remedies it might have at law.
15. 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.
  16. Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.
  17. Amendments; Waivers. No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. 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. 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 shall be for administrative purposes only and shall have no legal effect.
  18. 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" shall 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 shall 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 shall not be deemed a part hereof or affect the construction or interpretation of any provision hereof.
  19. Independent Contractors. The parties to this Agreement 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 Software and Services may provide results and conclusions based on facts, assumptions, data, material, and other information that Flexera Software 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 Software or Work Product; all actions taken or not taken by Licensee based on the output of the Software or Work Product shall 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.
  20. Force Majeure. Neither party shall 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

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23. Equal Opportunity. Flexera Software 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.
24. 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 shall not apply in interpreting this Agreement.
25. 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.
26. 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 Evaluation and Free Software
  - f. [Schedule 6](#) – Terms and Conditions for Not for Resale Software
  - g. [Schedule 7](#) – Cloud Software Service Levels
27. 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.

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

The terms of this Schedule 1 shall apply to all Installation products licensed by Flexera Software to Licensee. Any terms not defined in this Schedule 1 shall have the meanings ascribed to them in the Agreement. The provisions of this Schedule 1 shall 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 1 and the terms of the main body of the Agreement, the terms included in this Schedule 1 shall control. As of October 2015, the following products are considered "Installation products" and such list may be updated time to time by Flexera Software in its sole discretion without amending this Schedule 1:

InstallShield Express
InstallShield Professional
InstallShield Premier
InstallShield Standalone Build
InstallShield Collaboration
InstallShield Limited Edition for Visual Studio
InstallAnywhere Professional
InstallAnywhere Premier
InstallAnywhere Standalone Build
InstallAnywhere Virtualization and Cloud

**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 Software, 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 LIMITED EDITION FOR VISUAL STUDIO**

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5. **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.
6. **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 this Order Schedule.

#### **WORKFLOW MANAGER**

1. **“Device”** means any physical or virtual device for which any function is performed by the Software (including but not limited to delivering, installing, updating, migrating or repairing any computer program or data file; or monitoring, tracking, or reporting on the status or history 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.
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 the applicable Order Confirmation, Flexera Software 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 shall require a service provider license.

#### **APP PORTAL**

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 the applicable Order Confirmation, Flexera Software 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 shall require 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 Software’s AdminStudio software. Subject to all of the terms and conditions of this Agreement, Flexera Software 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 Software 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 shall also include 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 SOFTWARE 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, SHALL 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 SOFTWARE 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 SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA SOFTWARE’S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**

**EXHIBIT A TO SCHEDULE 3  
ACCEPTABLE USE POLICY  
FLEXNET MANAGER SUITE**

**Summary**

The following describes the conditions under which Licensee must, and must not, use FlexNet Manager Suite. If Licensee does not agree to this acceptable use policy, please do not use FlexNet Manager Suite.

Flexera Software disclaims all liability for information Licensee provides or authorize which is outside the scope of its intended purpose. This includes, but is not limited to, the following categories of information, which Licensee hereby agrees not to provide or allow to be collected:

- Protected Health Information ("PHI") as defined under the Health Insurance Portability and Accountability of 1996 Act as amended ("HIPAA").
- Payment card information.
- Copyrighted content, whether copyrighted by Licensee or others.
- Information about Licensee's customers, account holders, subscribers, or business partners.
- Personally Identifiable Information of the employees of the vendors from which Licensee purchased use rights.

Further, unless Licensee is a member of the FlexNet Manager Suite partner program who has arranged to apply the intended purpose of FlexNet Manager Suite to others, Licensee agrees:

- not to provide information which identifies Licensee's customers, account holders, subscribers, or business partners.
- not to provide account information of Licensee's customers, account holders, subscribers, or business partners.

**Personally Identifiable Information ("PII")**

To use FlexNet Manager Suite, Licensee will need to supply PII to it. If Licensee does not use FlexNet Manager Suite for a software product that is licensed on a per user basis, then the only PII that Licensee will need to supply is for the small number of administrators that establish accounts on FlexNet Manager Suite.

The PII supplied by Licensee's administrators of FlexNet Manager Suite must only include the information necessary to establish an account and for Licensee to identify that administrator should Licensee need to contact them for any reason, or to terminate their account.

Any PII supplied by Licensee that is included with Licensee's software usage information must only be provided if that identification is necessary to help FlexNet Manager Suite achieve its intended purpose.

The PII Licensee supplies must relate only to the business persona of Licensee's employees, and only to the extent the PII is necessary for FlexNet Manager Suite to achieve its intended purpose.

Since the following do not relate to a business persona, Licensee agrees not to provide:

- home addresses
- home phone numbers
- private mobile phone numbers
- private email addresses
- any identifier of a computer or device owned by an employee that is not covered by Licensee's BYOD policy (including, but not limited to, identifiers such as IP address, Ethernet MAC Address, computer name, or device name)
- any other information that can identify an employee's private persona

Since the following are not necessary for FlexNet Manager to achieve its intended purpose, Licensee agrees not to provide:

- national identification numbers (including, but not limited to, social security numbers, or even the last 4 digits of such numbers)
- state/province identification numbers (including, but not limited to, driver's license numbers)
- passport numbers
- alien registration numbers
- biometric identifiers
- financial account numbers or other non-public financial information

- other sensitive information, such as medical information, citizenship or immigration status, ethnic background, political affiliation, religious affiliation, sexual orientation, organizational memberships, date of birth, age, criminal history, mother's maiden name

#### **Clarification of Roles**

When Licensee is using FlexNet Manager Suite, Licensee agrees that it is the PII controller and Flexera Software is the PII processor, per the definitions of these terms ISO 29100.

#### **Providing Too Much Information**

Licensee agrees not to provide, or allow to be collected, information about more users, computers, or devices than are necessary for FlexNet Manager Suite's intended purpose.

#### **Logical Separation of Usage versus Content**

Licensee agrees not to provide information generated, processed, or stored by the software products supported by FlexNet Manager Suite, except for any information generated, processed, or stored by those software products that is necessary for FlexNet Manager to achieve its intended purpose.

#### **Gold Master Use Rights Information**

FlexNet Manager Suite is not intended to be used as the sole source of Licensee's use rights information. Licensee must retain the original copies of use rights information in the same form and with the same completeness in which Licensee provided those copies to FlexNet Manager Suite.

#### **Testing of FlexNet Manager Suite Cloud**

If Licensee uses the Cloud deployment of FlexNet Manager Suite, Licensee agrees not to perform the following tests.

Licensee agrees to not conduct Denial of Service testing against FlexNet Manager Suite Cloud.

Licensee agrees to not exploit any security vulnerabilities in FlexNet Manager Suite Cloud, even if Licensee discovers these vulnerabilities through Licensee's own use of FlexNet Manager Suite Cloud.

Licensee agrees to not conduct vulnerability scanning or penetration testing ("pen testing") without prior written consent of Flexera Software. Even if given prior written consent, Flexera Software may revoke that consent at any time if the scanning or testing is determined, or suspected, to have negative effects on FlexNet Manager Suite Cloud, other FlexNet Manager Suite Cloud customers, or Flexera Software, either because of the scanning or testing itself or because of the current state of or load on FlexNet Manager Suite Cloud. Flexera Software's consent to allow Licensee to conduct scanning or testing does not constitute Flexera Software's agreement to take any action based on the results of Licensee's scanning or testing.

**[END OF SCHEDULE 3]**

**SCHEDULE 4**  
**TERMS AND CONDITIONS FOR SOFTWARE VULNERABILITY MANAGEMENT PRODUCTS**

The terms of this Schedule 4 shall apply to all Software Vulnerability Management products licensed by Flexera Software to Licensee. Any terms not defined in this Schedule 4 shall have the meanings ascribed to them in the Agreement. The provisions of this Schedule 4 shall 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 4 and the terms of the main body of the Agreement, the terms included in this Schedule 4 shall control. As of October 2015, the following products are considered "Software Vulnerability Management products" and such list may be updated time to time by Flexera Software in its sole discretion without amending this Schedule 4:

<b>Corporate Software Inspector</b>
<b>Vulnerability Intelligence Manager</b>

**CORPORATE SOFTWARE INSPECTOR**

1. **"Host"** means servers, workstations, mobile devices or other network end points such as firewalls, routers, switches, and phone systems, that have one or more IP Addresses restricted to what the software can scan from time to time. Licensee must inform Flexera Software of any change in IP addresses used in relation to the Software.
2. **"Internal Purposes"** means reporting of vulnerabilities related to applications located within Licensee's own systems.
3. **"User"** means any natural person authorized by Flexera Software to use the Software being either an employee of Licensee or a third-party consultant working for Licensee at Licensee's site.
4. **Grant of License.** Subject to all of the terms and conditions of this Agreement and the applicable Order Confirmation, Flexera Software 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.
5. **Vulnerability Tracking Database.** Licensee is not entitled to use the vulnerability tracking database (vuln\_track) outside of the user interface of the Software.
6. **Copies.** Notwithstanding Section II.1.d. of the Agreement, Licensee may not make copies of the Software without prior written approval from Flexera Software.
7. **Support and Maintenance.** Support and Maintenance will be provided in accordance with the terms and conditions set forth at <http://media.flexerasoftware.com/documents/Support-CSI-SLA.pdf>. Notwithstanding Section II.1.c.i. of the Agreement, Schedule 7 shall not apply to Corporate Software Inspector.
8. **Disclaimer.** While the Software is intended to detect and disclose vulnerabilities in Licensee's system, Flexera Software makes no representation or warranty that the Software will detect all vulnerabilities.

**VULNERABILITY INTELLIGENCE MANAGER**

1. **"Internal Purposes"** means assisting with the identification, management and/or remediation of vulnerabilities in applications deployed or to be deployed within Licensee's own systems.
2. **"Recipient"** means any person that may, either directly or indirectly, have deployed to, access, or otherwise receive all or any portion of advisories or vulnerability updates by and/or from the Software. For the purpose of certification as set forth in this Agreement, the number of Recipients is equal to the total number of unique Recipients during the previous year.
3. **Grant of License.** Subject to all of the terms and conditions of this Agreement and the applicable Order Confirmation, Flexera Software 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.
4. **IP Address.** For On-Premise Software, Flexera Software will deliver the advisories and/or vulnerability updates to a single IP address. Licensee must inform Flexera Software of any change of IP address.
5. **Vulnerability Tracking Database.** Licensee is not entitled to use the vulnerability tracking database (vuln\_track) outside of the user interface of the Software.

6. Copies. Notwithstanding Section II.1.d. of the Agreement, Licensee may not make copies of the Software without prior written approval from Flexera Software.
7. Support and Maintenance. Support and Maintenance will be provided in accordance with the terms and conditions set forth at <http://media.flexerasoftware.com/documents/Support-VIM-SLA.pdf>. Notwithstanding Section II.1.c.i. of the Agreement, Schedule 7 shall not apply to Vulnerability Intelligence Manager.
8. Disclaimer. While the Software is intended to detect and disclose vulnerabilities in Licensee's system, Flexera Software makes no representation or warranty that the Software will detect all vulnerabilities.

**[END OF SCHEDULE 4]**

**SCHEDULE 5**  
**TERMS AND CONDITIONS FOR EVALUATION AND FREE SOFTWARE**

The use of Software received by Licensee for purposes of evaluation (“**Evaluation Software**”), regardless of how labeled, or any Software provided at no charge (“**Free Software**”) will be governed by the terms set forth in this Schedule 5. Any terms not defined in this Schedule 5 shall have the meanings ascribed to them in the Agreement. The provisions of this Schedule 5 shall 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 5 and the terms of the main body of the Agreement, the terms included in this Schedule 5 shall prevail.

1. Grant of License. Subject to all of the terms and conditions of this Agreement, Flexera Software 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 Software 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.
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 Maintenance. Flexera Software will have no Support and Maintenance obligation to Licensee for Evaluation Software or for Free Software, unless otherwise agreed by the parties.
5. Disclaimer of Warranty. **THE SOFTWARE IS PROVIDED ON AN "AS IS" BASIS. NEITHER FLEXERA SOFTWARE 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, SHALL 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 SOFTWARE 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 SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA SOFTWARE’S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**
7. Termination. Licensee’s license may be terminated by Flexera Software 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 Software. 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 5]**

**SCHEDULE 6**  
**TERMS AND CONDITIONS FOR NOT FOR RESALE SOFTWARE**

The use of Software received by Licensee that is identified as a “Not for Resale” or “NFR” license, (“NFR Software”), such NFR Software will be governed by the terms set forth in this Schedule 6. Any terms not defined in this Schedule 6 shall have the meanings ascribed to them in the Agreement. The provisions of this Schedule 6 shall 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 6 and the terms of the main body of the Agreement, the terms included in this Schedule 6 shall prevail.

1. Grant of License. Subject to all of the terms and conditions of this Agreement, Flexera Software grants Licensee 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 Software at any time upon notice to Licensee.
2. No Maintenance. Unless otherwise agreed by the parties, Flexera Software will have no Support and Maintenance obligation to Licensee for NFR Software.
3. Disclaimer of Warranty. **NFR SOFTWARE IS PROVIDED ON AN "AS IS" BASIS. NEITHER FLEXERA SOFTWARE 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, SHALL 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 SOFTWARE 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 NFR SOFTWARE OR ANY DATA SUPPLIED THEREWITH, EVEN IF FLEXERA SOFTWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY OTHER PARTY. IN NO CASE WILL FLEXERA SOFTWARE’S LIABILITY FOR ANY DAMAGES HEREUNDER EXCEED FIFTY DOLLARS (US \$50).**
5. Termination. Licensee’s license to NFR Software may be terminated by Flexera Software at any time immediately upon notice to Licensee. In the event of termination, Licensee must cease using the NFR Software, destroy all copies of the NFR Software (including copies in storage media), if applicable, and certify such destruction to Flexera Software. 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 6]**



**SCHEDULE 7**  
**CLOUD SOFTWARE SERVICE LEVELS**

1. **Equipment.** Flexera Software will host Cloud Software using servers, switches, routers, cabling and other equipment and infrastructure ("**Equipment**") provided by Flexera Software.
2. **Environment.** Flexera Software will maintain the Equipment in a data center ("**Data Center**") that has the following features:
  - Physical access to the Data Center will be restricted to authorized personnel only.
  - Equipment will be securely mounted using racks and/or fixtures.
  - Electrical power for Equipment will be supplemented by an uninterruptible power supply ("**UPS**") and generator. The UPS and generator will be tested at least once per month.
  - The Data Center will be protected by a fire suppression system appropriate for a data center environment.
3. **Access.** Each party will adopt precautions in accordance with recognized industry standards, including but not limited to password protection, to prevent access to the Cloud Site by parties other than Licensee, Flexera Software and their respective authorized end users.
4. **Network Connectivity.** Flexera Software will manage network connectivity from the Equipment into the hub or switch at the Data Center, to the points where Flexera Software's wide area network ("**WAN**") (including the Data Center backbone and other high-speed links leased for the Data Center) terminates at designated exchange points with other IP backbone carriers. Such network connectivity will encompass fully redundant dedicated connections to the Internet.
5. **Firewall.** Flexera Software will employ firewall security protection modules that are designed to prevent unauthorized access to Flexera Software's network. The firewall modules will be controlled through a management system, which also provides for the storage, management and analysis of firewall log files. Firewall configurations, security policies, and authentication policies will be routinely backed up through a secure process.
6. **Backup and Restoration.** Flexera Software will provide full and incremental backups for Cloud Software. Incremental backups will normally be performed 6 days per week and full backups will normally be performed 1 day a week. Incremental backups will be kept for a minimum of 6 days, while full backups will be kept for a minimum of 6 weeks. The full backups will be stored off-site in a secure fire-resistant facility. Upon termination or expiration of a Cloud Software subscription, Flexera Software will retain Licensee's data in the active Cloud Site for ninety (90) days after such expiration or termination of the subscription and Licensee will have access to a limited Cloud Site for the sole purpose of accessing such data. After such ninety (90) day period, Licensee's access to the limited Cloud Site will expire and Flexera Software will delete Licensee's data from the Cloud Site; provided, however, that any prior backups that have been performed for disaster recovery or failover will not be deleted, until such backup is overwritten by other data or destroyed in accordance with Flexera Software's record retention policy.
7. **System Monitoring.** Flexera Software will monitor the performance characteristics of system and network components in real-time. Flexera Software will perform system-level polling of the hardware, operating system and applications of each server to identify abnormal system-level conditions. Flexera Software will perform network-level monitoring on the hardware interface of each component of the Equipment necessary to the network component of the Cloud Site.
8. **Support of Cloud Software.**
  - 8.1. General. Flexera Software will provide a combination of email-based and telephone-based support on issues related to Cloud Software and the Cloud Site. Licensee may contact Flexera Software support by email or telephone at any time, 24 X 7 X 365. Flexera Software support staff will be available for live-answer telephone and email support between the hours of 6:00 p.m. Sunday and 6:00 p.m. Friday Pacific time (for the purpose of this Schedule 7, "**Business Hours**"). Target timeframes for responding to calls are set forth in Section 8.4. Support will be provided in English.
  - 8.2. Staffing and Escalation. Support requests that are not resolved during the initial contact with a Flexera Software technical support analyst will be escalated to Flexera Software internal technical experts based upon severity level. The support staff will manage escalated support requests according to the terms contained herein.
  - 8.3. Support Request Tracking. Support requests will be entered into the support request tracker system and assigned to a support representative who will track and report on each support request via the support request tracker.
  - 8.4. Target Times for Responding to Support Requests. Flexera Software will reasonably prioritize support requests from Licensee according to the severity levels set forth below. After receiving a support request from Licensee, Flexera Software will make commercially reasonable efforts to respond to Licensee via telephone or email within the Target Response Times corresponding to the appropriate Severity Levels shown below.

Severity Level	Description	Target Response Time
1 Critical	Production use of the Cloud Site is stopped or so severely impacted that authorized end users cannot reasonably use it. Flexera Software will work continuously to resolve the support request until the support request is closed. Severity Level 1 issues must be reported by telephone.	0.5 Business Hours
2 Significant	Major Cloud Site documented features are unavailable with no workaround. Use of the Cloud Site can continue; however, productivity is significantly decreased. Flexera Software will work continuously to resolve the support request until the support request is closed. Severity Level 2 issues must be reported by telephone.	2 Business Hours
3 Impaired	Major Cloud Site documented features are unavailable, but a workaround is available, or less significant Cloud Site documented features are unavailable with no reasonable workaround.	4 Business Hours
4 Minimal	Authorized end user requests information about the Cloud Site or an enhancement to the existing Cloud Software specifications. Use of the Cloud Site is available without being materially and adversely impeded.	8 Business Hours

9. **Scheduled Outages.** “Scheduled Outages” mean planned interruptions in the Cloud Site to make changes to Flexera Software’s systems. Flexera Software regularly evaluates web site traffic patterns in order to determine low usage times in which to perform Scheduled Outages. If Licensee’s Cloud Site is located in Flexera Software’s US data center, Scheduled Outages of 2 hours or less in duration will be conducted Monday through Thursday between 5:00 p.m. and 3:00 a.m., or between 6:00 a.m. Saturday and 12:00 p.m. Sunday, Pacific time and Scheduled Outages that exceed 2 hours will be conducted between 6:00 a.m. Saturday and 12:00 p.m. Sunday Pacific time. If Licensee’s Cloud Site is located in Flexera Software’s European data center, Scheduled Outages of 2 hours or less in duration will be conducted Monday through Thursday between 7:00 p.m. and 5:00 a.m., or between 6:00 a.m. Saturday and 12:00 p.m. Sunday Central European time and Scheduled Outages that exceed 2 hours will be conducted between 6:00 a.m. Saturday and 12:00 p.m. Sunday Central European time. Flexera Software will not perform Scheduled Outages on the last 2 business days of any calendar month. For Scheduled Outages of 2 hours or less in duration Flexera Software will notify Licensee no later than 48 hours prior to the Schedule Outage. For Scheduled Outages of more than 2 hours in duration Flexera Software will notify Licensee no later than 120 hours prior to the Schedule Outage. Notice for the purpose of this Section may be a message be placed on the login page to the Cloud Site.
10. **Monthly Uptime.** Flexera Software will maintain systems and controls designed to maximize Monthly Uptime, minimize unscheduled outages, and enable the most prompt notification possible in the event of any unscheduled outage. Flexera Software will credit to Licensee the percentage specified below of the total Monthly Fee paid by Licensee to Flexera Software, for any calendar month in which Monthly Uptime for the month falls within the range specified below that results in Licensee being unable to access the Cloud Site.

Monthly Uptime %	% Monthly Fee Credited
99.50% - 100%	0%
97.5% - 99.49%	5%
95% -97.49%	10%
90% - 94.99%	15%

Flexera Software will employ automated tools to monitor Monthly Uptime. If Monthly Uptime falls below 99.5% for any 3 consecutive months, or falls below 95% in any single month, Licensee may terminate the Agreement in accordance with the Agreement. “**Monthly Uptime**” means the amount of time in any given month that the Cloud Site is operational and functional in all material respects, as a percentage of the total amount of time in such month, excluding Scheduled Outages. “**Monthly Fee**” means the amount of the recurring license fee paid by Licensee under the Agreement that is allocable to 1 month (does not include implementation, configuration, professional or other nonrecurring fees). The remedies in this Section are the sole and exclusive remedies available to Licensee for any failure by Flexera Software to maintain the required Monthly Uptime. The Monthly Uptime commitment only applies to the portion of the Cloud Site that is hosted in a Flexera Software Data Center. Components located on Licensee’s network or systems are not covered under the Monthly Uptime.

11. **Third-Party Contractors.** Flexera Software may retain third party contractors to provide facilities, equipment and/or services for which Flexera Software is responsible, provided Flexera Software will be solely responsible to Licensee for such contractors’ performance in accordance with this Schedule 7 and their compliance with any applicable provisions of the Agreement, including but not limited to confidentiality provisions.

**[END OF SCHEDULE 7]**