

InstallShield Service Provider

1. **“Build System”** means a machine or group of machines dedicated to compiling code via automated or scheduled tasks.
2. **“Customers”** means the customers of Licensee for which Licensee has purchased a service provider license to use InstallShield Service Provider to provide Software Engineering Services. Licensee may not be its own Customer. Licensee shall be solely responsible for the Customer relationship; Flexera will have no obligations whatsoever to Customers.
3. **“Software Engineering Services”** means those services that Licensee provides to Customers utilizing InstallShield Service Provider for the purpose of creation or modification of installation programs of Customer products.
4. **“User”** means the individuals who access InstallShield Service Provider for the purposes of designing and developing software installations.
5. **Grant of License.** Notwithstanding the license grant set forth in the Agreement, but subject to acceptance of and all other terms and conditions of the Agreement and upon Licensee’s payment of the fees shown on the invoice, Flexera grants Licensee a non-transferable, non-sublicensable, non-exclusive license to use, within the License Level, for the sole purpose of providing Software Engineering Services to Customers for such Customers’ Internal Purposes, (i) InstallShield Service Provider, in accordance with the Documentation, and (ii) Documentation.
6. **Installation.** Licensee may install and operate InstallShield Service Provider at a Customer location.
7. **License Models.**
 - a. **Node-Locked Licenses.** If Licensee has licensed InstallShield Service Provider on a node-locked basis, Licensee may install and use one instance of InstallShield Service Provider on a single computer either physically installed or on a virtual image on that computer only at Licensee’s site(s) for delivery of Software Engineering Services only in accordance with the License Level. A node-locked license is limited to use by a single User on a single computer or virtual image; Licensee may not install InstallShield Service Provider on a shared computer. Copying a virtual image for the purposes of using the image either simultaneously or as a replacement on another machine is strictly prohibited.
 - b. **Concurrent Licenses.** If Licensee has licensed on a concurrent basis, Licensee may install InstallShield Service Provider on any machine at Licensee’s site(s) for delivery of Software Engineering Services only in accordance with the License Level. All machines using InstallShield Service Provider must have the ability to communicate with a license server to be authorized to use InstallShield Service Provider. For the purpose of certification as set forth in the Agreement, the number of concurrent Users is the highest number of Users that accessed InstallShield Service Provider at any single point during the previous year.
8. **License Restrictions.**
 - a. **No Leave Behind.** InstallShield Service Provider may not be left behind at Customer’s site or on Customer’s systems once the Software Engineering Services are completed. If computers, servers or networks on which InstallShield Service Provider is installed are no longer owned or leased by Licensee, Licensee must remove InstallShield Service Provider from such computers, servers or networks.
 - b. **No Other Use.** Licensee may not use InstallShield Service Provider for any reason other than for Software Engineering Services for Customers. For the purpose of clarity, Licensee may not use InstallShield Service Provider licenses for its own purposes and Licensee may not use InstallShield Service Provider for the purpose of creating installation packages for distribution outside of Customers’ organizations.
9. **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 InstallShield Service Provider which are in addition to or inconsistent with those set forth in the product descriptions or promotional materials delivered by Flexera to Licensee hereunder. Licensee may not make any representation, warranty or guarantee by or on behalf of Flexera. Licensee shall represent Flexera and InstallShield Service Provider in a positive and professional manner at all times. Licensee is not to re-brand or otherwise represent InstallShield Service Provider 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 InstallShield Service Provider 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 InstallShield Service Provider.

- 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 of InstallShield Service Provider under this Agreement.
- d. **Software Engineering Services Site.** Licensee shall identify, upon Flexera's request, the Customer and the site of the performance of the Software Engineering Services for such Customer for each applicable license.
- e. **Flow-Through of Terms.** Licensee shall enter into an agreement with a Customer that is equally as protective of InstallShield Service Provider as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to InstallShield Service Provider of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to InstallShield Service Provider 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.

10. Expiration and Termination.

- a. **Expiration of Licenses.** Upon completion or termination of the Software Engineering Services for a Customer (the "**Expiration Date**"), Licensee will cease using the applicable licenses for such Customer. If InstallShield Service Provider was installed and used at Customer's site, Licensee will uninstall InstallShield Service Provider from any equipment used for the provision of Software Engineering Services to such Customer and will provide Flexera with certification thereof. For the purpose of clarity, Licensee may not transfer licenses to Customers without Flexera's prior written consent, which may be withheld in Flexera's sole discretion.
- b. **Effect of Termination.** In no event will Licensee be entitled to receive a refund of any licensee fees paid prior to the applicable termination date, and Licensee shall be responsible for the fees applicable for the remainder of the license term as if such license had not been terminated or expired.

11. **Transfers.** For licenses based on non-concurrent Administrators, transfers that are the result of employee turnover or reassignment are allowed, provided that such transfers do not occur more frequently than annually.

12. **Redistributables.** InstallShield Service Provider component parts may not be separated for use on more than one computer, except as set forth in this Agreement. Licensee may copy the files specifically identified in the documentation as "redistributables" and redistribute such files to Licensee's end users of Licensee's products, provided that: (a) such products add primary and substantial functionality to the redistributables, (b) all copies of the redistributables must be exact and unmodified; and (c) Licensee grants Customers' end users a limited, personal, non-exclusive and non-transferable license to use the redistributables only to the extent required for the permitted operation of Licensee's products and not to distribute them further. Licensee will reproduce with the redistributables all applicable trademarks and copyright notices that accompany InstallShield Service Provider, but Licensee may not use Flexera's name, logos or trademarks to market Licensee's products.

13. **Support and Maintenance.** Flexera will have no support or maintenance obligations whatsoever to Customers.

14. Marketing and Trademarks.

- a. **Marketing Materials.** All marketing materials, demonstration copies of InstallShield Service Provider (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 InstallShield Service Provider. 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.

15. **Usage Information.** Notwithstanding anything to the contrary in the Agreement, Flexera may collect and use information based on Service Provider's and Customers' use of InstallShield, and Service Provider hereby consents (and shall procure that each Customer consents) to Flexera's collection and use of such information for the purpose of compliance reporting and anti-piracy. Such information may include (without limitation) usernames/user IDs, user email addresses, computer or device names, Wi-Fi SSIDs, however, Flexera will not collect any special categories of Personal Data (this includes details about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health and genetic and biometric data). Any information collected for the purpose of this Section 11 is stored and Processed in accordance with the Data Privacy provision(s) set out in the Agreement.

16. **Software.** For the purpose of the Agreement, InstallShield Service Provider is considered "Software".