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ProsperOps Autonomous Discount Management (ADM) - Product Specific Terms

These Product Specific Terms for ProsperOps Autonomous Discount Management (the "**ADM PSTs**") set forth the direct terms and conditions under which Flexera provides Customer with a right to access or use the ADM Products, whether acquired directly from Flexera or indirectly from a Flexera Partner, and supplement the terms and conditions of the Flexera Subscription Agreement available at https://www.flexera.com/sites/default/files/flexera-subscription-agreement.pdf (the "**Agreement**"). To the extent there is any conflict between the terms set forth in these ADM PSTs and the Agreement, these ADM PSTs control and take precedence with respect to the ADM Products.

1. **Defined Terms.** Capitalized terms shall have the meanings ascribed below. Any terms not defined herein shall have the meaning as defined in the Agreement or Order, as applicable.

ADM Products	Means any of the Product offerings list in section 2 of these ADM PSTs. The ADM Products do not include Software as defined in the Agreement.
Customer Data	means, with respect to the ADM Products and notwithstanding anything to the contrary in the Agreement, the data that Customer transmits to the ADM Products, that is accessible via public cloud APIs or UIs, or that Customer creates by means of the ADM Products.
Discount Instrument	means a third-party cloud product offered by the third-party cloud provider (AWS, Google Cloud, Azure) to provide discounts on the applicable product by committing to a term, amount, resource type, region, etc. of the specific product (e.g. reserved instance, savings plan, spend-based committed use discount, resource-based committed use discount, etc.).
Savings	means the monthly savings generated from Discount Instrument(s) based on the difference between the discounted price and the on-demand equivalent price. The Order may define different savings calculations applicable to the ADM Product offerings, and in which case the terms of the Order will prevail.
Savings Share	means the usage-based charge for the Product(s), calculated as a percentage of the savings generated from the Discount Instrument(s), as more specifically defined in the applicable Order.

2. **Offerings.** The ADM Products are available in the following offerings. Each Order will identify the applicable (i) ADM Product(s), (ii) Subscription Term, and (iii) Savings Share.

   Autonomous Discount Management for AWS compute

   Autonomous Discount Management for AWS non-compute

   Autonomous Discount Management for Google Cloud compute

   Autonomous Discount Management for Google Cloud non-compute

   Autonomous Discount Management for Azure compute

   Autonomous Discount Management for Azure non-compute

3. **Charges and Invoicing.**

   3.1. Charges. The charges for the ADM Product(s) are the Savings Share stated in the Order. Savings Share charges are usage based and will be billed based on usage measured in dollar savings as defined in the Order. Charges are billed and must be paid in United States Dollars. Customer must pay any charges associated with Customer's active Product(s) even if Customer does not use the Product(s). Except as explicitly permitted in the Agreement, Charges are non refundable.

   3.2. Invoicing. Unless otherwise agreed in an Order, Flexera will invoice (i) monthly minimums, base charges, and other fixed monthly recurring charges monthly in advance on or after the first day of each calendar month, except that a partial first month may be invoiced on the Order execution date; and (ii) Savings Share, usage charges, and other variable charges monthly in arrears on or after the last day of each calendar month.

4. **Term and Termination.**

   4.1. Renewal. Notwithstanding anything to the contrary in the Agreement, any renewal clause in the Agreement will not apply to ADM Products and renewal will be addressed in the applicable Order.

   4.2. Termination. Notwithstanding anything to the contrary in the Agreement, section 9.3.2 of the Agreement does not apply to ADM Products and Customer may not terminate any Order for ADM Products for convenience.

   4.3. Charges on Termination. Upon termination of the Agreement, an applicable Order, or Product(s), Flexera will invoice the Savings Share charges for savings realised through the date of termination and, unless termination is by Customer for Flexera's uncured breach of the Agreement, pursuant to Section 6.2, or as permitted in the SLA, charges for savings that will be realised post-termination based on Product(s) provided during the Term. The unrealised Savings Share charge for post-termination periods will be based on the most recent hourly savings prior to the effective date of termination, normalised to a 720-hour month, for the lesser of the remaining Discount Instrument term or twelve (12) months, where Flexera has provided Product(s). Flexera's invoice for Savings Share charges under this Section is due on receipt.

5. **Customer Obligations.**

   5.1. Authorization. Customer will authorize Flexera as an authorized user on Customer's cloud account(s) in accordance with the instructions provided during ADM Product(s) configuration. In accordance with the Order, Customer's controlled settings in the customer console, and guidance Customer provides to Flexera, Customer authorizes Flexera to manage and make non-cancellable and non-refundable Discount Instrument spend commitments on Customer's behalf, including modifications, exchanges, purchases, renewals, merges, splits, and sales. Customer authorizes Flexera to act on the instructions of any user who authenticates using active account credentials established by Customer or its Authorized Users.

5.2. Cloud Account Settings. Where applicable to Customer's Product(s), Customer will (i) ensure that discount sharing is enabled across all Amazon Web Services accounts in a consolidated billing family and not disable discount sharing for new accounts added to Customer's billing family; and (ii) enable discount sharing on Google Cloud billing accounts where Flexera is providing Product(s). Discount sharing settings cannot be detected programmatically by Flexera, and Customer acknowledges and agrees that deactivating discount sharing can result in a higher monthly cloud bill.

5.3. Billing Interference. Customer must not use or attempt to use the ADM Product(s) in a way that undermines Flexera's ability to correctly calculate its charges.

5.4. Security Obligations. Customer must use reasonable and appropriate security precautions in connection with its use of the ADM Products, such as requiring its users to establish secure passwords and using commercially reasonable efforts to protect its systems and data from malware. Customer will notify Flexera promptly of any unauthorized access or use of the Products and use the ADM Products only in accordance with the Agreement.

5.5. Authorized Users. An Authorized User may not be a competitor of Flexera. Customer is solely responsible for de-activating or updating user permissions and authentication credentials for Customer's account, such as on the termination of employment of an Authorized User. Customer authorizes Flexera to act on the instructions of a user who authenticates using active account credentials that Customer or an Authorized User have established.

6. Additional Terms.

6.1. Access Right. For the avoidance of doubt, Customer does not receive a license to the ADM Products. As used in the Agreement and with respect to the ADM Products, any references to Customer's "use" of or "access" to the ADM Products shall only include the right to access and use the ADM Products.

6.2. Suspension and Changes to the ADM Products. Flexera may modify or suspend access to the ADM Products (a) as necessary to respond to changes in Applicable Law, changes to the terms of a third-party cloud provider, or a material security vulnerability, or (b) if Customer is in material breach of the Agreement. Flexera will provide Customer with at least five (5) business days' prior notice of any modification or suspension, unless such notice is impracticable in the circumstances or the modification or suspension is necessary to protect the security of the ADM Products. Suspension will be limited only to such period as necessary to resolve the grounds on which it was deemed necessary. If a modification or suspension under subsection (a) materially and adversely affects Customer's use of the ADM Products, Customer may terminate the affected Order for the ADM Products by written notice within thirty (30) days following the modification or suspension and receive a refund of any unused prepaid fees for the affected ADM Products as its sole and exclusive remedy.

6.3. Service Levels. Notwithstanding anything to the contrary in the Agreement, Flexera will provide the ADM Products in accordance with the Service Level Agreement attached to these ADM PSTs as Exhibit 1.

6.4. Artificial Intelligence. For the avoidance of doubt and notwithstanding anything to the contrary in the Agreement, the ProsperOps Products are not considered AI or an AI model as those terms are used in Section 11 of the Agreement.

6.5. Suspension. Flexera may suspend Customer's access to the ADM Products during any period that Customer is in material breach of the Agreement or Customer's access to the ADM Products creates a material security vulnerability. Flexera will give Customer at least five (5) business days' advance notice of the suspension, unless the suspension is made under emergency circumstances or to protect the security of the ADM Products, and will reinstate Customer's access to the ADM Products when the grounds for suspension are cured, unless Flexera has already terminated the Agreement in accordance with Section 9.2 of the Agreement.

6.6. Reporting. Notwithstanding anything to the contrary in the Agreement (specifically Section 5.2.4), the ADM Products include functionality that allows data to be transmitted to Flexera specifically relating to the ADM Products.

6.7. No Post-Termination Access. Notwithstanding anything to the contrary in the Agreement (specifically Section 9.4.5), Flexera will cease providing the ADM Products immediately upon the effective date of expiration or termination.

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Exhibit 1 - Service Level Agreement for ProsperOps ADM (SLA)

This document communicates ProsperOps' Service Level Agreement (SLA"). Capitalized terms, unless otherwise defined herein, shall have the same meaning as in the Service Terms.

1. Service Availability: ProsperOps' Autonomous Discount Management Service Availability commitment for a given calendar month is 99.9%. Service Availability is calculated per month as follows:

(Total − ProsperOps Unplanned Outage − ProsperOps Planned Maintenance − Third Party Unplanned Outage/Planned Maintenance) ÷
(Total − ProsperOps Planned Maintenance − Third Party Unplanned Outage/Planned Maintenance) × 100 ≥ 99.9%

Definitions:

- Total is the total minutes in the month
- Unplanned Outage is total minutes unavailable due to an unplanned outage in the month
- Planned Maintenance is total minutes of planned maintenance in the month
- Third Party are providers required to deliver the service, including but not limited to Amazon Web Services ("AWS"), Google Cloud, Microsoft Azure ("Azure"), and Auth0

If actual maintenance exceeds the time allotted for Planned Maintenance it is considered an Unplanned Outage. If actual maintenance is less than time allotted for Planned Maintenance, that time is not applied as a credit to offset any Unplanned Outage time for the month. Planned Maintenance is limited to four (4) hours for quarterly maintenance and notifications are published at https://status.prosperops.com.

Uptime status is available to Customer at https://status.prosperops.com/.

2. Support: ProsperOps support staff will be available for live-answer support between the hours of 9:00 AM Monday through 5:00 pm Friday Local Time, excluding federal public holidays in the United States. Support will be provided in English language only. "Local Time" means United States Central time.

3. Case Submittal: Customer may submit cases via email to help@prosperops.com or, in the case of an emergency, phone. ProsperOps will respond to each case in accordance with this SLA and will use commercially reasonable efforts to resolve each case. Actual resolution time will depend on the nature of the case and the resolution itself. A resolution may consist of a fix, delivery of information, or other commercially reasonable solution to the issue.

4. Severity Level Determination: Customer shall self-diagnose each support issue and recommend an appropriate Severity Level designation in the email subject line or during the phone call. ProsperOps shall validate Customer's Severity Level designation or notify Customer of a proposed change in the Severity Level designation to a higher or lower level with justification for the proposal. In the case a conflict requires a discussion, both parties shall be available within four (4) hours of the escalation.

5. Severity Level Response Time: For email cases, Response Time is the period from the time the case was sent until ProsperOps responds to Customer. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments.

Severity Level 1:

- Definition: The Autonomous Discount Management Service is unavailable to manage Discount Instruments.
- Response Commitment: ProsperOps will respond within one (1) hour of receipt of case. For Severity 1 issues, the case will be submitted by phone.
- Resolution: ProsperOps will work to resolve the problem until the applicable Discount Management Service is returned to normal operation. Customer will be notified of status changes.

Severity Level 2:

- Definition: Customer's applicable Autonomous Discount Management Service encounters an issue that does not impact management of Customer's AWS, Google Cloud, and/or Azure (as applicable) Discount Instruments (e.g., access to the ProsperOps Console).
- Response Commitment: ProsperOps will respond within twenty-four (24) hours of receipt of case. For Severity 2 issues, the case can be submitted by phone, email, or chat.
- Resolution: If resolution requires a fix, ProsperOps will add the bug fix to its development queue for future update. Customer will be notified of status changes.

General Requests / Severity Level 3:

- Definition: Non-system issues, requests for ad hoc reporting or business documents, etc. Questions about configuration and functionality should be addressed via help articles at https://help.prosperops.com.
- Response Commitment: ProsperOps will respond within forty-eight (48) hours of receipt of case. For Severity 3 issues, the case can be submitted by phone, email, or chat.
- Resolution Commitment: ProsperOps will respond to request. Customer will be notified of status changes.

6. Service Credits: Service Credits are fixed amounts or are calculated as a percentage of the total charges paid by you (excluding one-time payments) for the monthly billing cycle in which the SLA violations occurred in accordance with the schedule(s) below.

Service Availability

Monthly Service Availability Percentage	Service Credit Percentage
Less than 99.9% but equal to or greater than 99.0%	10%
Less than 99.0% but equal to or greater than 95.0%	30%
Less than 95.0%	100%

Response Time

Case Severity	Service Credit
For Severity 1	$250 for every hour beyond the response commitment up to 100%
For Severity 2	$100 for every hour beyond the response commitment up to 50%
For Severity 3	Not applicable

ProsperOps will apply any Service Credits against future payments due from Customer. Service Credits will not entitle you to any refund or other payment from ProsperOps.

7. Credit Requests. To receive a Service Credit, you must request a Service Credit no later than ten (10) days following the day that the ProsperOps commitment was not met. You must submit your request to help@prosperops.com.

8. General SLA Terms. ProsperOps is not required to apply credits for any month that exceeds the charges due from you for that month. ProsperOps is not required to apply unused credits to past or future months for your Services or to apply them to other services. ProsperOps is not required to apply a credit if any charges due from you are overdue, or if your account has been suspended or terminated for your violation of the Order or Agreement. If you are entitled to a credit after the time that you have paid your final charges to ProsperOps, ProsperOps will issue the credit to you in the form of a credit to your payment card or account. Time periods are measured with reference to timestamps in the ProsperOps system or other reliable ProsperOps records. The credit remedies provided in this SLA are your sole and exclusive remedy for damages arising from ProsperOps' failure to meet a commitment for which a credit is provided.

9. Termination for SLA Breach: Customer may terminate the Agreement upon thirty (30) days written notice to ProsperOps if we incur three (3) SLA violations within any ninety (90) day period during the contract term.

