

RISC Products for Service Providers

(Foundation, Migration, Performance and Trending, Security, and CloudScape)

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2. **“Device”** means any physical or virtual device for which any function is performed by the RISC Products (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 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.
3. **“RISC Products”** means Foundation, Migration, Performance and Trending, Security and/or CloudScape. An applicable Order shall set forth which RISC Products are licensed by Licensee. For the sake of clarity, Foundation is required as the base of any purchase of the RISC Products. Cloudscape means the combination of Foundation and Migration.
4. **“IT Services”** means those information technology services which Licensee provides to Customers utilizing the RISC Products.
5. **“Device License Week”** means a Device that is licensed for any part of one week during the term of any Service Provider license. Device License Weeks draw down as they are used by Licensee and expire after one (1) year. For the sake of clarity, a Device License Week is consumed at the time a license is provisioned, regardless of the amount of time during the week that it is actually used. In the event that Licensee exceeds the amount of Device License Weeks purchased, Licensee shall immediately purchase additional Device License Weeks at the then-current price.
6. **Burst License.** A Burst License is a temporary license for a Device for a period of thirty (30) days. At the end of such thirty (30) day period, the Burst License will cease to report on the Device(s) unless Licensee purchases a subsequent Burst License, provided that Licensee shall have the ability to view reports for 12 months from the date of purchase of the Burst License.
7. **FlexDeploy.** FlexDeploy is a single virtual machine to allow for Licensee to utilize the RISC Products without sending any Licensee data outside of Licensee’s firewalls. For the purpose of clarity, any Flexera will not host or process any Licensee data if Licensee elects to purchase the FlexDeploy virtual machine.
8. **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 IT Services to Customers for such Customers’ Internal Purposes, (i) the RISC Products, in accordance with the Documentation, and (ii) Documentation.
9. **No Other Use.** Licensee may not use the RISC Products for any reason other than for IT Services for Customers. For the purpose of clarity, Licensee may not use the RISC Products licenses for its own purposes and Licensee may not use the RISC Products for the purpose of performing IT Services for distribution outside of Customers’ organizations.
10. **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 RISC Products 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 the RISC Products in a positive and professional manner at all times. Licensee is not to re- brand or otherwise represent the RISC Products as anything other than the RISC Products 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 the RISC Products 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 RISC Products.
 - 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 the 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 the RISC Products under the Agreement.

- d. **IT Services Site.** Licensee shall identify, upon Flexera's request, the Customer and the site of the performance of the IT 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 the RISC Products as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to the RISC Products of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to the RISC Products 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.

11. Expiration and Termination.

- a. **Expiration of Licenses.** Upon completion or termination of the IT Services for a Customer, Licensee will cease using the applicable licenses for such Customer. If the RISC Products were installed and used at Customer's site, Licensee will uninstall the RISC Products 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.

12. **Verification.** Licensee hereby authorizes Flexera to (i) access and review Licensee's or its Customer's cloud environment for the purpose of providing and making available the RISC Products and (ii) prepare aggregated and anonymized data based on Licensee's use of the RISC Products.

13. **Support.** Notwithstanding anything to the contrary in an Agreement, Support for the RISC Products shall be as set forth at <https://www.riscnetworks.com/support/#overview>. Flexera will have no support or maintenance obligations whatsoever to Customers.

14. Marketing and Trademarks.

- a. **Marketing Materials.** All marketing materials, demonstration copies of the RISC Products (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 RISC Products. 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. **Software or SaaS.** For the purpose of the Agreement, the RISC Products are considered "SaaS".