



Spot Products - Product Specific Terms

These Product Specific Terms for Spot Products (the “Spot PSTs”) set forth the direct terms and conditions under which Flexera provides Customer with a right to access or use it’s the Sport Products (as further defined in Section 1 below), 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 Spot PSTs and the Agreement, these Spot PSTs control and take precedence.

- 1. Offerings_The Spot Products are available in the following offerings and license models. Each Order will define the applicable (i) Spot Product(s), (ii) Subscription Model and (iii) License Model.

Spot Products	License Model
CloudCheckr	Cloud Spend
Ocean/ Elastigroup	vCPU Hours or Savings
ECO	Savings
Ocean for Apache Spark	Spark Core Hours
Spot Security	Node

- 2. Defined Terms. Capitalized terms shall have the meanings ascribed below. Any terms not defined herein shall have the meaning as defined in the applicable Agreement.

Cloud Spend	means the prior month's gross spend ingested into the Spot Product from an eligible cloud infrastructure provider, including any upfront costs, including from reserved capacity purchases, and is measured before any credits and/or discounts.
Excess Fees	Means fees as identified in an Order, which are payable by the Customer where actual usage exceeds the Minimum Committed Fees.
Fixed Term Subscription	means a fixed, non-cancellable, annual or multi year subscription to the Spot Products as further detailed in the Order.
Minimum Committed Fees	Means a minimum fee, as identified in an Order which is payable by Customer regardless of its amount of usage, or level of Savings. For the avoidance of doubt, Customer shall not be entitled to receive a refund of any Minimum Committed Fees if Customer’s actual usage is less than the Minimum Committed Fee(s).
Monthly Billing Date	the earlier of (a) the monthly anniversary of the subscription commencement date or (b) the last day of the month where (a) is not a valid date.
Monthly Subscription	means a 1-month subscription to the Spot Products as further detailed in the Order.
Node	Means an individual cloud asset within an eligible public cloud environment as further detailed in the Documentation at https://docs.spot.io/spot-security/license/?id=subscription . An asset may include, without limitation, virtual machines, Kubernetes worker nodes and containerized workloads.
PAYGo	means a subscription, to the Spot Products where monthly fees are calculated based upon Customer actual usage as further detailed in the Order.
Savings	Means the difference between the on demand published list pricing and the pricing achieved by Customer’s use of the Spot Products. Savings are calculated according to each cloud service provider as further detailed in the Documentation at https://docs.spot.io/connect-your-cloud-provider/dashboard?id=fee-calculation .
Spark Applications	means the execution of a user-provided application code, submitted for the service via an API, a notebook or another supported interface. The amount of core hours used by each Spark Application shall be visible in the service dashboard. It is computed as the sum of the lifetime duration of each Spark core allocated to a Spark Application.
Spark Core Hour	means each core hour dedicated to a Spark Application executed on Ocean for Apache Spark. For the avoidance of doubt, the total number of Spark Core Hours for billing purposes is the sum of all core hours of Spark Applications executed on Ocean for Apache Spark in a given month.
Subscription Model	Means the subscription model as identified in the Order. Subscription Models for the Spot Products can be (i) Fixed Term Subscription (ii) Monthly Subscription, or (iv) PAYGo
vCPU Hours	Means the number of vCPUs Customer allocates to each Ocean and/or Elastigroup managed instance × the number of hours each instance runs each month.

- 3. Changes, Cancellation, and Renewals.

3.1. Monthly and PAYGo Subscriptions. Monthly Subscriptions will automatically renew for additional one-month terms unless cancelled in writing no later than 14 days before Customer’s Monthly Billing Date. Following such notice, Customer will receive the applicable Spot Product(s) for the remainder of the Billing Month in which the cancellation is effective, and no further charges will be incurred. If either party exercises this right Customer will not receive a refund. Flexera may modify its prices and fees and apply new fees upon 30 days prior written notice.

3.2. Fixed Term Subscriptions. Fixed Term Subscriptions are non-cancellable. Fixed Term Subscription will automatically renew at the end of a Subscription Term in accordance with the terms of the Agreement.

- 4. Invoicing. Unless otherwise agreed between Customer and Flexera in an Order and subject always to any Minimum Committed Fees set forth in the applicable Order(s), Flexera will invoice the Customer for the applicable Spot Product(s) fees as follows:



- 4.1. Monthly Subscriptions and PAYGo. Monthly in arrears. PAYGo fees will be calculated based on Customer's actual usage of the Spot Products in accordance with the applicable Licensing Model for each Product as further detailed in the Order.
- 4.2. Fixed Term Subscriptions. Annually in advance in accordance with the terms of the Agreement.
5. **Spot Security.**
 - 5.1. Licensing on Spot Security uses an upfront service credits system, with one (1) service credit = one (1) US\$. For each Node, Customer entitled to receive ninety-nine (99) service credits per year. Customer may purchase additional service credits during the subscription term. The cost of such additional service credits shall be agreed in the Order.
 - 5.2. Spot Security computes the consumption of the Nodes and deducts such consumption from the customer's Service Credits Bucket (as defined in an applicable Order) on an hourly basis, where each hour is equal to 0.0113 service credits. For example, for a consumption of ten hours of a compute instance (for example, AWS' EC2 or Azure's Virtual Machine), 0.113 service credits shall be deducted from the Customer's Service Credits Bucket.
 - 5.3. For the purpose of Section 4 of these Spot PSTs, Spot Security licenses shall be deemed Fixed Term Subscriptions.
6. **Service Levels.** Notwithstanding anything to the contrary in the Agreement, Flexera will provide the Spot Products in accordance with the Service Level Agreement attached to these Spot PSTs as Exhibit 1.



Exhibit 1 - Service Level Agreement for Spot Products

1. Terms

The following Service Level Agreement (“SLA”) will be considered the applicable Service Levels for the Spot Products and form part of the Agreement. Capitalized terms used, but not defined in the SLA, will have the meaning assigned to them in the Agreement and/or Spot PSTs.

2. Definitions

- 2.1. **Allowable Downtime** means scheduled Flexera maintenance and upgrades.
- 2.2. **Downtime** means the total accumulated minutes that are part of Maximum Available Minutes that have no Service Connectivity, excluding a period when the Service is not available due to Allowable Downtime.
- 2.3. **Maximum Available Minutes** means the total number of minutes in a month.
- 2.4. **Monthly Fees** means the total fees paid or payable by Customer during the month in which the service level failure occurs, and includes Minimum Committed Fees and any Excess Fees but excludes any fees associated with professional services.
- 2.5. **Service Connectivity** means that the Service can be accessed.
- 2.6. **Uptime Percentage** means Monthly Uptime Percentage % = (Maximum Available Minutes – Downtime) / Maximum Available Minutes.

3. Service Levels and Service Credits. If the Spot Product does not achieve the service levels described in this Service Level Agreement (“SLA”), then Customer may be eligible for a service credit.

- 3.1. **Availability Service Level.** Flexera will use commercially reasonable efforts to make the Service available with the Uptime Percentage as below

Spot Product(s)	Availability Service Level
ECO, Elastigroup, Ocean, Ocean for Apache Spark, Spot Security,	99.99% during any Monthly Billing Cycle
Cloudcheckr	99% during any Monthly Billing Cycle

- 3.2. **Claims Process.** To receive any of the service credits described below, Customer must notify Flexera within four weeks of the incident. Failure to comply with this requirement will forfeit the right to receive a service credit. All notifications should, to the extent reasonably possible include the following information:

- Calculated Downtime
- Relevant Spot Product
- Relevant Instance ID
- All applicable documentation to corroborate the claimed outage, including:
 - Username, phone number and email address of the affected individual(s)
 - Description of the technical problem(s), including screenshots of any error messages where possible
 - Completed steps to reproduce the issue
 - URL or API call utilized, if applicable
 - Web browser used, if applicable

- 3.3. **Service Credits.** Flexera will evaluate all information provided and make a good faith determination as to whether a service credit is owed for the future use of the Spot Product.

- a) For ECO, Elastigroup, Ocean, Ocean for Apache Spark, Spot Security, the service credit will apply to future use of the Spot Product and will be deducted from Customer’s next billing cycle/invoice, as detailed in the Table 1:

Monthly Uptime Percentage	Allowable Service Credit
Below 99.99%	10% of Monthly Fees
Below 99.0%	30% of Monthly Fees payable during the

- b) For CloudCheckr, the service credit will not exceed five additional days of Service availability, which will be added to Customer’s Subscription Term. The service credit can only be applied to towards future payments for the Spot Product

Monthly Uptime Percentage	Days of Service added to the Subscription Term
99% - >97.5%	1
97.5% - >95%	2
94.9% or below	5

- c) Limitations Customer must contact Flexera in the manner defined above, within four (4) weeks of the incident, and Customer is only eligible to receive a service credit once per month per Customer. The service credit can only be applied towards Customer future payments for the applicable Spot Product, or where no future payments are due, Flexera will issue a refund upon Customer request.

4. Exceptions. This SLA does not apply to any issues which are attributable to: (i) Allowable Downtime; (ii) administrative actions taken by non-Flexera personnel that impact end user access; (iii) a force majeure event or factors which are outside Flexera’s reasonable ability to control; (iv) Customer equipment, software or other technology and/or third party equipment, software or other technology (other than



third party equipment within Flexera's direct control); (v) Customer use of the Spot Product after Flexera advised Customer to discontinue or modify Customer use of the Spot Product, if Customer did not modify Customer use as advised; (vi) preview, pre-release, beta, trial or any other unpaid versions or features of the Spot Product; (vii) Customer failure to adhere to service restrictions or in breach of the terms of the Agreement ; (viii) data in transit authentication and/or encryption (signing and/or sealing); and/or (ix) any suspension and termination of Customer right to use the Spot Product in accordance with the Agreement.

5. Spot Eco

- 5.1. Customer will provide Flexera with the AWS reserved instances ("RIs") and savings plans ("SPs") and/or Microsoft Azure RIs, SPs and reserved capacity ("RC") and/or Google Cloud Platform committed usage discounts ("GCP CUD") strategy selection (the "Strategy"). The Strategy may be modified in writing between Customer and Flexera from time to time.
- 5.2. Customer authorize Flexera to manage Customer RIs, SPs and RC across all AWS and/or Microsoft Azure services offering "Reserved" capacity and/or GCP CUD, subject to the applicable Strategy. Such authorization includes making and modifying RI, SP, RC and/or GCP CUD commitments, selling and any other RI, SP, RC and/or GCP CUD actions offered by AWS and/or Microsoft Azure and/or Google Cloud Platform, including any commitment management actions.
- 5.3. Customer will reasonably cooperate with Flexera in performance of the services including, without limitation: (i) responding within forty-eight (48) hours of request from Flexera regarding a material change in Customer AWS and/or Microsoft Azure and/or Google Cloud Platform usage patterns, (ii) providing Flexera with advance notice of any expected or planned material changes in AWS and/or Microsoft Azure and/or Google Cloud Platform usage that would affect any RI, SP, similar RC and/or GCP CUD utilization.
- 5.4. For the avoidance of doubt, upon expiration of the Subscription Term, Customer will continue to be solely responsible for the obligations under any RI, SPs, RC and/or GCP CUD commitments then in effect with AWS and/or Microsoft Azure and/or Google Cloud Platform, based on the applicable Strategy, and for the management of such RIs, SPs, RC and/or GCP CUD and Flexera will have no responsibility in this regard.