

Software Vulnerability Manager (“SVM”) Service Provider

1. **“Device”** means any physical or virtual device for which any function is performed by SVM Service Provider (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, history, or security vulnerabilities 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. **“Customers”** means the customers of Licensee for which Licensee has purchased a service provider license to use SVM Service Provider to provide IT 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. **“IT Services”** means those information technology services which Licensee provides to Customers utilizing the SVM Service Provider Product.
4. **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 vulnerability management services to Customers for such Customers’ Internal Purposes, (i) SVM Service Provider, in accordance with the Documentation, and (ii) Documentation.
5. **Disclaimer.** While SVM Service Provider is intended to detect and disclose vulnerabilities in a Customer’s systems, Flexera makes no representation or warranty that SVM Service Provider will detect all vulnerabilities.
6. **Installation.** Licensee may install and operate SVM Service Provider at a Customer location.
7. **License Models.**
 - a. **Multiple Customer.** If Licensee purchases licenses based on a multiple Customer model, Licensee is acquiring licenses to be used for any of Licensee’s Customers. Licenses not identified as “Multiple Customer” or “Factory” licenses on an Order may not be used for multiple Customers and will be governed by the Named Customer terms below.
 - b. **Named Customer.** If Licensee purchases licenses based on a named Customer model, Licensee may use SVM Service Provider for the named Customer identified in the applicable Order, provided that Licensee may not use SVM Service Provider for any Customer other than the Customer identified in the applicable Order.
8. **License Restrictions.**
 - a. **No Leave Behind.** SVM Service Provider may not be left behind at Customer’s site or on Customer’s systems once the software vulnerability management services are completed. If computers, servers or networks on which SVM Service Provider is installed are no longer owned or leased by Licensee, Licensee must remove SVM Service Provider from such computers, servers or networks.
 - b. **No Other Use.** Licensee may not use SVM Service Provider for any reason other than for software vulnerability management services for Customers. For the purpose of clarity, Licensee may not use SVM Service Provider licenses for its own purposes and Licensee may not use SVM Service Provider for the purpose of managing and analyzing vulnerabilities in its own organization.
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 SVM 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 SVM Service Provider in a positive and professional manner at all times. Licensee is not to re- brand or otherwise represent SVM Service Provider as anything other than Software Vulnerability Manager 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 SVM 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 SVM 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 SVM Service Provider under this 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. **Notice of Termination of IT Services for Named Customer.** In the event software vulnerability management services expire or are terminated for a particular Customer, Licensee may be required to notify Flexera of such expiration or termination within thirty (30) days of the effective date of such expiration or termination.
- f. **Flow-Through of Terms.** Licensee shall enter into an agreement with a Customer that is equally as protective of SVM Service Provider as this Agreement. Licensee shall notify Flexera of any uncured breach of any terms related to SVM Service Provider of which it becomes aware. Licensee will enforce the agreement it has with its Customer as it relates to SVM 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 IT Services for a Customer, Licensee will cease using the applicable licenses for such Customer. If SVM Service Provider was installed and used at Customer's site, Licensee will uninstall SVM Service Provider from any equipment used for the provision of software vulnerability management 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 license 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. **Support.** Flexera will have no Support obligations whatsoever to Customers.

12. Marketing and Trademarks.

- a. **Marketing Materials.** All marketing materials, demonstration copies of SVM 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 SVM 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.

13. **Software or SaaS.** For the purpose of the Agreement, SVM Service Provider may be considered either "SaaS" or "Software" and the Order will specify which will apply either through the words SaaS or Cloud for SaaS and On-Premise for Software.