



Flexera Usage Intelligence Terms Of Use

The following are the terms and conditions of use ("TOU") under which we will allow you (either an individual or a legal entity that you represent as an authorized employee or agent) to access and use the Flexera Usage Intelligence solution and related analytics.revulytics.com, <https://community.flexera.com/t5/Usage-Intelligence-Knowledge/Usage-Intelligence-SDK-download-links-and-API-documentation/ta-p/140516>, and <https://community.flexera.com/t5/Usage-Intelligence/ct-p/Usage-Intelligence> (including all their subpages, subdomains, services and content, the "Web Portal") and the various software and services offered on the Web Portal and/or described herein (collectively, the "Flexera Services"). The Flexera Services are provided by (Malta) Ltd., a limited liability company incorporated under the laws of Malta, bearing company registration number C74223 and having its registered office at 171 Old Bakery Street, Valletta, VLT1455, Malta, a wholly-owned subsidiary of Flexera Software LLC (hereinafter referred to as "Flexera"). Please read these TOU carefully.

BY CLICKING THE "I ACCEPT" BUTTON, COMPLETING THE REGISTRATION PROCESS AND/OR USING ANY SERVICE, YOU ARE STATING THAT YOU ARE ELIGIBLE FOR A FLEXERA LOGIN ACCOUNT AND THAT YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THE SERVICE CONTAINED IN THE TOU (THE "AGREEMENT"). THE FLEXERA SERVICES ARE OFFERED TO YOU SUBJECT TO YOUR ACCEPTANCE WITHOUT MODIFICATION OF THE TERMS, CONDITIONS, AND NOTICES CONTAINED HEREIN. For purposes of these TOU the terms "Us", "Our" and "We" all refer to Flexera. "You" refers to you as the visitor and/or user and/or customer who accesses and/or uses our Web Portal and/or registers for and/or uses any Flexera Services we offer through our Web Portal.

These TOU should be read in conjunction with our **Privacy Policy**. Please also note that certain Flexera Services offered may be subject to the payment of a fee.

If you are entering this Agreement on behalf of a corporation or other legal entity (see "REGISTERING A FLEXERA LOGIN ACCOUNT ON BEHALF OF A LEGAL ENTITY," below) and that entity has entered into a master service agreement with Flexera, this Agreement will be subordinate to that agreement and, in the event any terms or provisions conflict, the terms stated in the master agreement will supersede and prevail unless the master agreement identifies specific provisions of the TOU or Agreement that prevail.

IF YOU DO NOT AGREE TO BE BOUND IN FULL BY THESE TOU, YOU ARE NOT PERMITTED TO ACCESS OR USE THIS WEB PORTAL OR TO REGISTER FOR OR MAKE USE OF OUR FLEXERA SERVICES. BY ACCESSING AND REMAINING ON THIS WEB PORTAL AT ANY TIME AND/OR REGISTERING FOR OR MAKING USE OF OUR FLEXERA SERVICES, YOU ARE DEEMED TO ACCEPT IN FULL THIS AGREEMENT, including THESE TOU. ANY VIOLATION OF THIS AGREEMENT MAY RESULT IN THE SUSPENSION AND/OR TERMINATION OF YOUR Flexera LOGIN ACCOUNT AND/OR ANY PRODUCT ACCOUNT OR PART THEREOF WITHOUT PREJUDICE TO ANY OTHER RIGHTS AT LAW.

ACCEPTANCE OF TERMS

This Agreement, including these TOU, may be updated from time to time to reflect changes in our Flexera Services and this Web Portal. The most current version of these TOU can be reviewed by clicking on the "Terms of Use" hypertext link located at the bottom of our Website pages (www.flexera.com) or by accessing www.flexera.com/terms-of-use.

Flexera may at any time modify any relevant terms, conditions, policies or notices contained in the Agreement. You acknowledge that by visiting the Web Portal from time to time and/or using any Flexera Service, you shall become bound by the current version of the relevant terms and conditions and, unless stated in the current version, all previous versions shall be superseded by the current version. You are responsible for reviewing the then current version each time you visit the Web Portal. Flexera reserves the right to update the TOU at any time without explicit notice to you and therefore you are to read and understand the latest TOU accessible on our Website whenever you access our Web Portal and/or use our Flexera Services.

DESCRIPTION OF SERVICES

Our Web Portal provides you with access to a variety of Flexera Services, including download areas, online data collection, data analytics & reporting, communication tools and product information. All Flexera Services, including any updates, enhancements and new features, are subject to these TOU.



Flexera reserves the right at any time and from time to time to modify or discontinue temporarily, indefinitely or permanently any Flexera Services (or part thereof) with or without notice.

PERSONAL USE LIMITATION

Except as permitted in the Section below titled “**REGISTERING A FLEXERA LOGIN ACCOUNT ON BEHALF OF A LEGAL ENTITY**,” the Flexera Services are for your personal use and may be used only for purposes of monitoring free or commercial applications owned or licensed by yourself, and you may not resell any part of the Flexera Services to third parties unless you have been authorized by us in writing.

Except as provided herein you may not modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, software, products or services included in or obtained from the Flexera Services.

REGISTERING A FLEXERA LOGIN ACCOUNT

For you to use most Flexera Services you are required to open an account with Flexera (the “**Login Account**”) through our Web Portal.

In order to register for and obtain a Login Account you are required to complete the registration process by providing us with current, complete and accurate information as prompted by the applicable registration form. Failure to register accordingly may limit or prohibit your access and/or use of our Services.

In order to register and use a Login Account, you confirm that you are not a minor, you are not subject to any legal or contractual prohibition and you are legally capable of contracting. In all cases you must be 18 years of age or older.

Currently registering your Login Account is FREE, subject to any fair usage limits imposed by us from time to time. The most current version of our Fair Usage Policy can be reviewed by accessing www.Flexera.com/fair-usage-policy

Flexera reserves the right to alter the Fair Usage Policy and/or the fee policy for the registering and/or using of a Login Account at any time. You are not entitled to register more than one Login Account on and for your own behalf.

You shall be fully responsible towards Flexera for all use whatsoever of your Login Account, including for creating and managing login credentials which give full access to the Login Account.

Among other things you shall:

- (i) Complete any forms required to be filled in and in so doing you shall provide true, accurate and up-to-date information, including a valid email address, and any other information requested in order to complete the signup process.
- (ii) Choose and provide a unique password and a user name and valid email account. You are entirely responsible for maintaining the confidentiality of your password and Login Account and are prohibited from creating any fictitious details or purporting to be someone that you are not.

You shall not disclose, or permit or encourage the disclosure of your password to anyone, including to any Flexera staff.

By successfully registering a Login Account you may become entitled, amongst other things to: (i) create one or several accounts to track your individual software products (each, a “**Product Account**”), in which case you will be deemed to be an Account Administrator having full permissions to manage such Product Account; and/or (ii) subject to invitation by another Account Administrator, be granted full or limited permissions to manage other Product Accounts; in both cases subject to additional terms and conditions contained herein.

For avoidance of doubt, you may log in to your Login Account without creating a Product Account. Creating a Product Account will allow you to track products using the Flexera Usage Intelligence SDK (one software application per Product Account).

Currently, registering your first Product Account is FREE. All subsequent Product Accounts shall be subject to our Flexera Services Fees in accordance with the terms contained herein. Flexera reserves the right to alter the fee policy for registering and using Product Accounts. You are not entitled to register more than one free Product Account including by means of separate Login Accounts.



If, through your Login Account you create and enable a Product Account, you shall automatically be deemed to be the administrator of that Product Account (the **"Account Administrator"**). The Account Administrator shall be the person responsible for the Product Account at all times and shall have full rights in administering same, including (i) to terminate the respective Product Account, (ii) to apply for changes (upgrades or downgrades) in the relative pricing subscription plan for that Product Account, (iii) to set budgets for add-ons and extras for that Product Account, and (iv) to alter billing details amongst other things in relation to that Product Account.

Therefore, as Account Administrator you shall be the primary person responsible towards Flexera in respect of the Product Account created by you, whether the Product Account is created by you personally or on behalf of a legal entity (see **"REGISTERING A FLEXERA LOGIN ACCOUNT ON BEHALF OF A LEGAL ENTITY"** below).

As Account Administrator you shall be notified with a product identity number (the **"Product ID"**) to be used when integrating the Flexera Usage Intelligence SDK with your third-party software (**"TPS"**). The Product ID is to be treated as private and confidential and you shall ensure that same is not disclosed or otherwise made public, except as authorized herein to Trusted Persons (defined below).

While Flexera endeavors to implement such security measures as it deems necessary and reasonable to maintain the security of your Product ID, Flexera shall not be held responsible for any claims, damages or losses whatsoever resulting from any unauthorized disclosure or unauthorized use of the Product ID or from any skewed or incorrect data resulting from such unauthorized disclosure or use of the Product ID.

The Account Administrator is the sole person who has the authorization to invite other trusted persons (the **"Trusted Person"**) to use or manage the respective Product Account. If you determine to do so you shall (i) set appropriate limits, if any, in respect of administration and/or report viewing permissions by the authorized Trusted Person, and (ii) grant such access only by means of the appropriate Flexera function accessible from your Login Account which permits you to invite secondary users and assign them their appropriate access permissions. You shall not, therefore, give to Trusted Persons or third parties whatsoever access to your Login Account or otherwise disclose your credentials. In setting said permissions, the Account Administrator may give the Trusted Person some or all of the Account Administrator's rights to the extent that may include giving to the Trusted Person full administrative powers to view, access and/or modify the Product Account including inviting additional persons to act as Trusted Persons (who may also be given administration rights) and also having the power to revoke access to other Trusted Persons including the original Account Administrator to the Product Account.

Therefore as an Account Administrator you:

- (i) Are responsible to grant authorization only to Trusted Persons whom you trust and who are responsible and therefore to set any permissions you deem necessary; you take full responsibility for permissions set by you.
- (ii) Understand and agree that by inviting/adding other Trusted Persons to use or manage the Product Account, you shall remain responsible for all acts and omissions carried out by the Trusted Person(s) on or through your Product Account;
- (iii) By allowing Trusted Persons to access, use or manage the Product Account you warrant that each such Trusted Person has read, understood and agreed to these TOU and is aware that the Trusted Person is jointly and severally responsible for all use whatsoever of the Product Account and Flexera Services;

In the event that you or any other person(s) simultaneously have administrator privileges of a Product Account, you and such other person(s) shall remain jointly and severally responsible as Account Administrators of that Product Account irrespective of whether you created the Product Account or were otherwise invited to administrate the Product Account.

For a Product Account to be registered and remain operative, at least one Account Administrator (having full administrator rights) must remain responsible for the Product Account at all times. A sole Account Administrator who no longer desires to remain so designated shall be required to either:

- (i) assign full administrator rights to a Trusted Person, who upon accepting such rights, shall be deemed to be the Account Administrator of the respective Product Account, provided that you shall disable your own administration rights, and hence be deemed no longer responsible as Account Administrator, only after the Trusted Person has agreed to be an Account Administration, or



(ii) if the Account Administrator does not desire to assign full administrator rights (or in the event that the Trusted Person does not accept such full administrator rights), the Account Administrator shall be required to terminate the Product Account in accordance with and subject to these TOU (and/or Flexera may terminate the respective Product Account).

As Account Administrator you are and shall remain at all times, including after you have granted access to Trusted Persons, entirely responsible for any and all activities that occur under your Login Account and Product Accounts created by you.

You agree to notify Flexera immediately of any actual or suspected unauthorized use of your Login Account (or Product Accounts) or any other breach of security. Flexera will not be liable for any loss that you may incur as a result of someone else using your password, credentials or Login Account or any Product Account, either with or without your knowledge. However, you will be liable for losses incurred by Flexera or another party due to someone else using your Login Account, any Product Account, password or credentials unless Flexera was directly responsible for that misuse. You may not use anyone else's Login Account at any time.

Whether in your capacity as Account Administrator, Trusted Person or in such other capacity whatsoever, you shall not use your Login Account, any Product Account or Flexera Services for any unlawful, illegal or unauthorized purpose whatsoever, including but not limited to use as, or part of, malware, spyware, spam, or other illegitimate software or for any use of software which may harm, impede or cause damage to third-party software, hardware or systems, or which may be used for illegitimate purposes or may breach the privacy and/or integrity of persons or systems (whether or not legal). You must not, when using this Web Portal or any Flexera Service, Login Account or Product Account, violate any applicable laws or legal requirements. We reserve the rights to suspend and/or terminate any Login Account and/or Product Account without notice in the event of any legal requirements or impositions by legal order emanating from a competent court or authority.

From time to time, our (or our Corporate Affiliates', as defined below, or third-party service providers', or partners') support staff may log in to your Login Account and/or Product Account(s) by means of our internal administration account in order to maintain, service, audit or improve service, including to provide you assistance with technical or billing issues. You hereby acknowledge and consent to such access. Flexera shall not disclose your personal password used in respect of your Login or Product Account.

IF YOUR LOGIN ACCOUNT and/or any product account, OR PART THEREOF, HAS BEEN SUSPENDED OR TERMINATED YOU SHALL NOT APPLY TO REGISTER FOR AN ALTERNATIVE LOGIN ACCOUNT and/or product account WITHOUT FIRST OBTAINING OUR EXPRESS WRITTEN CONSENT.

NO BOTS

You undertake not to register any Login Account(s) or Product Account(s) by means of any bots or automated methods whatsoever except with our prior written consent. The use of any bots shall entitle us to suspend or terminate any accounts created and such use shall be deemed to be unauthorized and illegal computer misuse.

REGISTERING A FLEXERA LOGIN ACCOUNT ON BEHALF OF A LEGAL ENTITY

If you use any Flexera Services or register a Login Account on behalf of any third party (the "Legal Entity"), you represent and warrant that (a) you are authorized to act on behalf of, and bind to this Agreement, that Legal Entity, (b) as between the Legal Entity and you, it is the Legal Entity who is entitled to any rights hereunder, (c) you shall not disclose the Legal Entity's data to any other party without the Legal Entity's consent, and (d) you are jointly and severally responsible and liable with the Legal Entity in respect of these TOU.

The person who first registers to open a Login Account on behalf of a Legal Entity shall be deemed to be the agent and representative responsible for acting towards Flexera on behalf of the Legal Entity. By creating any Product Accounts on behalf of a Legal Entity through the Legal Entity's Login Account, the Legal Entity shall be deemed to be the Account Administrator for that Product Account and any permissions granted in respect of the Product Account are assumed to be subject to prior authorization of the Legal Entity. You warrant to have obtained such authorizations accordingly. The person who first registers to open the Login Account on behalf of a Legal Entity and the Legal Entity shall be responsible in respect of any acts or omissions of Trusted Persons to whom permissions are given.

You shall ensure that the said Legal Entity is bound by and abides by the terms of this Agreement. Flexera and any person or entity which directly or indirectly controls, is controlled by or is under common control with Flexera, whether by ownership or otherwise (each, a "Corporate Affiliate") make no representations or warranties for the direct or indirect benefit of any third party. With respect to third



parties, you shall take all measures necessary to disclaim any and all representations or warranties that may pertain to Flexera and its Corporate Affiliates, the Flexera Services and/or the Flexera Usage Intelligence SDK and/or the Flexera Software and/or use thereof.

You agree that you and the Legal Entity shall indemnify, hold harmless and defend Flexera, its Corporate Affiliates, and their officers, directors, employees, agents or affiliates at your and the Legal Entity's expense, against any and all third-party claims, actions, proceedings, and suits brought against Flexera, its Corporate Affiliates, or any of their officers, directors, employees, agents or affiliates, and against all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys' fees and other litigation expenses) incurred by Flexera, its Corporate Affiliates, or any of their officers, directors, employees, agents or affiliates, arising out of or relating to:

- (a) any representations and warranties made by you or the Legal Entity concerning any aspect of the Flexera Services, the Flexera Usage Intelligence SDK or Flexera Software or otherwise to third parties;
- (b) any claims made by or on behalf of any third party arising directly or indirectly from your or the Legal Entity's use of the Flexera Services, the Flexera Usage Intelligence SDK or Flexera Software
- (c) your or the Legal Entity's failure to comply with applicable law and/or your obligations of privacy to any third party; and
- (d) any claims with respect to acts or omissions of third parties for whom you or the Legal Entity is responsible in connection with the Flexera Services, the Flexera Usage Intelligence SDK or Flexera Software.

PAYMENT FOR SERVICES

To be able to use all or part of our Flexera Services, you may be required to pay service fees ("Service Fees"), in which case you agree to supply all necessary information to permit the transaction to be processed securely. Among other things, you will be required to submit valid, accurate and up-to-date credit card details and/or to have a valid PayPal account which is in good standing.

You are responsible for all data submitted to us and to ensure that you retain copies of such data. You may, at any, time change the credit card assigned to your current subscription plan to another credit card.

Generally, free Flexera services and/or accounts do not require you to provide a credit card number. If you are in doubt about any requests for disclosure of information, you are advised to contact us immediately.

We reserve our right to request any additional information from you and/or to carry out any additional checks to determine the validity of any information given to us by you. If we suspect any suspicious or fraudulent behavior we reserve the right to suspend or terminate any Flexera Services and to report this activity to competent authorities.

Generally, unless otherwise stated or agreed, our Flexera Services are billed in advance on an annual basis for the next billing period (the "Billing Cycle") and are non-refundable. There will be no refunds or credits for prepaid months unused with an open account.

If we encounter any stopped payments, charge-backs, or any problems in effecting payments ("Billing Errors") in relation to your Login Account, Product Accounts and/or Flexera Services, we shall be entitled, at our discretion, to suspend your Accounts and Flexera Services until such Billing Errors are resolved or otherwise when we deem fit. In such event we shall make reasonable efforts to inform you of such Billing Errors on your email address which you last formally notified to us, provided that if such problems are not remedied by you within seven (7) days from the date of the Billing Error, we reserve the right to terminate your Login Account and/or any Product Account.

Flexera reserves the right to charge additional administrative fees in the event of new costs or expenses being incurred as a result of any Billing Errors or any problems effecting payment and/or in the event any of your actions, omissions and/or errors give rise to additional costs or expenses for Flexera. For avoidance of doubt, Billing Errors incur, and you shall pay to Flexera, an administration fee of no less than one hundred U.S. Dollars (\$100) or its equivalent in such other currency we deem fit, together with any charges or expenses which may have to be paid by Flexera. This administration fee and any additional charges incurred by Flexera may be charged directly to your account using the payment details provided.



For any upgrade in your subscription plan, your credit card details that you provided to us shall be used and your credit card or PayPal account will automatically be charged a pro-rated amount for the remaining time of the current Billing Cycle. If any billing transaction does not go through, the upgrade shall not take place.

Any downgrading of your subscription plan, or cancellation of any Flexera Services, shall occur only on commencement of the next Billing Cycle notwithstanding that you may have requested such downgrade or cancellation prior to the next Billing Cycle. You agree that any instructions to downgrade your subscription plan or cancel services must be effected by you directly through your Login Account at least twenty-four (24) hours before the end of the current Billing Cycle, or the change will not be effective until the Billing Cycle following the next Billing Cycle. Downgrades or cancellations must be made through your Login Account; other attempts to change (such as notice by email) shall not be considered and/or executed. You may see the date and time of your Product's new Billing Cycle through the Product Administration page of your Login Account. No refunds shall be made for already-processed payments.

Flexera is not liable if downgrading your subscription plan causes the loss of content, features, or capacity of your Login Account, any Product Account, or any Flexera Services.

Our Flexera Services may allow you to register for post-paid add-ons (i.e., additional Flexera Services you request in the middle of a Billing Cycle) and extras (i.e., usage made by you of Flexera Services above the contracted limits during a Billing Cycle) and in so doing it shall be your responsibility to keep track of your post-paid activity for which you will be charged directly. No refunds shall be payable for post-paid add-ons and/or extras. For your convenience in most cases you may be able to set parameters by establishing your maximum budget constraints for any post-paid add-ons and extras and in so doing you shall be responsible to monitor and keep up-to-date such budget constraints.

Changes to your subscription plan are normally confirmed via email.

We may change our fees and payment policies for Flexera Services from time to time and such changes shall be applicable within 30 days from written notice. The posting of the new fees or policies on our Website or Web Portal shall be deemed to be written notice. Flexera shall not be liable to you or any third party whatsoever for any modification, price change, suspension or discontinuance of a Flexera Service.

Unless otherwise stated, all fees are quoted in U.S. Dollars.

TAXES

All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties (excluding taxes on the net income of Flexera, which shall be our responsibility).

In the event that you are requested to provide a VAT number for payment exempt of VAT, you undertake and warrant that the VAT number belongs to you and not to any other third party, or that otherwise you are validly and legally authorized to use the VAT number for such purposes. You also warrant that the VAT number and any ancillary details you provide to us are valid, correct and up-to-date. You understand that we may be required to disclose information you give to us relating to your VAT number (including the VAT number itself) to competent authorities and therefore by giving us your VAT number and ancillary details you consent to said disclosure. You hereby agree to indemnify Flexera and its Corporate Affiliates in full and to pay such penalty as may be established by Flexera in the event of any breach of such provision

GENERAL NOTICE FOR ALL SOFTWARE AVAILABLE FOR DOWNLOAD FROM THIS WEB PORTAL

Unless otherwise stated in writing by Flexera, any software, applications or code that is made available for download from the Flexera Web Portal or pursuant to the Flexera Services including any upgraded or updated versions thereof (hereinafter "Software") are the copyrighted work of Flexera and/or its suppliers and any intellectual property therein is also the property of Flexera and/or its suppliers. Use of the Software is governed by the terms of the end user license agreement, if any, which accompanies or is included or posted online with the Software ("License Agreement"). An end user will be unable to install any Software that is accompanied by or includes a License Agreement unless he or she first agrees to the License Agreement terms.



The Software is made available for download solely for use by end users according to the License Agreement. Any reproduction or redistribution of the Software not in accordance with the License Agreement is expressly prohibited by law, and may result in severe civil and criminal penalties. Violators will be prosecuted to the maximum extent possible.

WITHOUT LIMITING THE FOREGOING, COPYING OR REPRODUCTION OF OUR SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED, UNLESS SUCH REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PERMITTED BY THE LICENSE AGREEMENT ACCOMPANYING SUCH SOFTWARE OR IS EXPRESSLY AUTHORIZED BY US IN WRITING.

THE SOFTWARE IS WARRANTED, IF AT ALL, ONLY ACCORDING TO THE TERMS OF THE LICENSE AGREEMENT. EXCEPT AS WARRANTED IN THE LICENSE AGREEMENT, FLEXERA HEREBY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS WITH REGARD TO THE SOFTWARE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

FOR YOUR CONVENIENCE, FLEXERA MAY MAKE AVAILABLE AS PART OF THE SERVICES OR IN ITS SOFTWARE PRODUCTS, TOOLS AND UTILITIES FOR USE AND/OR DOWNLOAD. FLEXERA DOES NOT MAKE ANY ASSURANCES WITH REGARD TO THE ACCURACY OF THE RESULTS OR OUTPUT THAT DERIVES FROM SUCH USE OF ANY SUCH TOOLS AND UTILITIES. IT IS YOUR OBLIGATION TO RESPECT THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS WHEN USING THE TOOLS AND FUNCTIONALITIES MADE AVAILABLE TO YOU BY OR ON THE SERVICES OR IN FLEXERA SOFTWARE PRODUCTS.

SPECIFIC LICENSE AGREEMENT FOR FLEXERA USAGE INTELLIGENCE SDK

The Flexera Usage Intelligence SDK is a proprietary software analytics tool available for download and subsequent integration into TPS, enabling a fully hosted call-home system and including a unique direct-to-desktop messaging system to end-users of the TPS.

The download and use of the Flexera Usage Intelligence SDK (and any updates, upgrades or new versions thereof), is subject to these TOU and this License Agreement.

At present, downloading the Flexera Usage Intelligence SDK is FREE, subject to any Fair Usage Policy in effect from time to time. Flexera reserves the right to alter its fee policy.

NON-EXCLUSIVE LICENSE:- Flexera hereby grants to you a limited, revocable, non-exclusive, non-sub-licensable license to install, copy and use the Flexera Usage Intelligence SDK solely as necessary for its integration with one or more of your TPS that you own and control and for subsequent distribution of your SDK-enabled TPS to end-users for purposes of remotely collating and reviewing analytical data and statistics about your TPS through our online Flexera Software.

The Flexera Usage Intelligence SDK is available for download on an "AS IS" basis and THERE ARE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS MADE BY FLEXERA AND/OR ITS CORPORATE AFFILIATES, EITHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE FLEXERA SERVICES, ANY FLEXERA SOFTWARE (INCLUDING THE FLEXERA USAGE INTELLIGENCE SDK), ANY DOCUMENTATION AND REPORTS PROVIDED BY FLEXERA OR THROUGH THE FLEXERA SERVICES, INCLUDING WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE.

Without limiting the above, Flexera does not warrant that the Flexera Service, the Flexera Usage Intelligence SDK, and/or any documents or reports will meet your needs or be free from errors, or that the operation of the service will be uninterrupted. Neither does Flexera guarantee that the Flexera Usage Intelligence SDK can be successfully integrated with your TPS and/or that the integration with your TPS will not cause any undesirable technical, administrative or financial effects to your TPS or your business. The integration and subsequent use by you of the Flexera Usage Intelligence SDK is at your risk.

The foregoing exclusions and disclaimers are an essential part of this Agreement and formed the basis for determining the price charged.



You will not, nor will you encourage or permit any third party to, (i) copy, modify, adapt, translate or otherwise create derivative works of the Flexera Usage Intelligence SDK or any documentation related thereto; (ii) reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code of the Flexera Usage Intelligence SDK, except as expressly permitted by the law in effect in the jurisdiction in which you are located; (iii) rent, lease, sell, assign or otherwise transfer rights in or to the Flexera Usage Intelligence SDK or any documentation; (iv) remove any proprietary notices or labels on the Flexera Usage Intelligence SDK or placed by any Flexera Service; or (v) use, post, transmit or introduce any device, software or routine which interferes or attempts to interfere with the operation of any Flexera Service or the Flexera Usage Intelligence SDK.

You will use the Flexera Usage Intelligence SDK, Flexera Services and any reports generated solely for your own internal use.

You will comply with all applicable laws and regulations in your use of and access to the Flexera Usage Intelligence SDK, Flexera Services, documentation, and reports.

This license will terminate immediately if you fail to comply with the terms of this Agreement. Upon such termination, you must destroy all originals and copies of the Flexera Usage Intelligence SDK (and any related code and documentation) in your possession and so certify in writing to Flexera within three (3) business days of request by Flexera and cease any further use of the Flexera Services without the express written consent of Flexera.

In the case where Flexera receives reports that your software may contain malware or some form of illegitimate behavior or else if we suspect that your usage of the Flexera Usage Intelligence SDK or Flexera Services breaches this Agreement, you agree to fully cooperate with Flexera in investigating these claims. For this purpose, within 48 hours from a request by Flexera, you agree to provide in writing to Flexera any information so requested, including but not limited to any use whatsoever of the Flexera Usage Intelligence SDK, the purpose of its use and the locations where it is installed, hosted and used. Upon Flexera's request, you shall submit a copy of your software with which our Flexera Usage Intelligence SDK is integrated (and all material and support necessary to get the product installed and running in a timely manner) so that our engineers can confirm that the Flexera Usage Intelligence SDK (and our Flexera Services) are being used appropriately in accordance with terms of this TOU and License Agreement and you hereby grant us a temporary, royalty free, worldwide license for such purposes. The software and license will be uninstalled and copies thereof destroyed once tests are finalized.

SERVICE LEVELS

Flexera does not guarantee that the Flexera Services (including the Flexera Software) will be operable at all times and you expressly acknowledge that they will generally not be available during any down time caused inter alia by (1) outages to any public Internet backbones, networks or servers, (2) any failures of our or your equipment, systems or local access services, (3) previously scheduled maintenance or (4) events beyond Flexera's control (including the control of its Corporate Affiliates, partners and third-party service providers) such as strikes, riots, insurrection, fires, floods, explosions, war, governmental action, labor conditions, earthquakes, natural disasters, or interruptions in Internet services to an area where Flexera (or its Corporate Affiliates, partners and third-party service providers) or our or your servers are located or co-located.

SUPPORT

If you require any support in relation to any Flexera Services and/or Flexera Software or SDK modules downloadable from our Web Portal, you are encouraged to first use our self-service helpdesk located at <https://community.flexera.com/t5/Usage-Intelligence/ct-p/Usage-Intelligence> and read the relevant Knowledge Bases and/or FAQs. Should you fail to answer your query you may contact us by opening a support ticket at <https://community.flexera.com/t5/Usage-Intelligence/ct-p/Usage-Intelligence> or by emailing us on https://community.flexera.com/t5/Flexera-Software-Community/ct-p/Flexera_Software_Community.

Unless otherwise stated, support is only available via email. We shall endeavor to respond to support requests as soon as possible; however our official support working hours are weekdays from 9 a.m. to 5 p.m. ET.

Notwithstanding the foregoing, we do not guarantee that we will be able to give support or that any support we give will be successful. Generally, Flexera endeavors from time to time to supply, free of any additional charge, standard updates and or upgrades of the Flexera Services and/or Flexera Software to users having a Login Account; however we cannot and do not guarantee that all updates and upgrades



shall be made available free of charge particularly when an issue or defect is not covered by our standard default services and may require some form of customer-specific customization or fix-around.

If you require any customization of our Flexera Services or Software or make a request for new services, such customization or new services may be subject to additional costs and fees as shall be agreed in writing between us and you. Whether we supply any update, upgrade, customization or new service, and whether same shall be at an additional cost or fee, is at our sole discretion.

DOCUMENTS AVAILABLE ON the WEB PORTAL

Permission to use any texts and/or documents on the Web Portal is granted, provided that (1) the below copyright notice appears in all copies and that both our copyright notice (below) and this permission notice appear, (2) use of such text and/or documents from the Flexera Services is for informational and personal/business use only and not for resale or redistribution and will not be copied or posted on any network computer or broadcast in any media except as may be permitted by us, and (3) no modifications of any documents are made.

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IMPORTANT NOTICES

YOU UNDERSTAND AND AGREE THAT FLEXERA USES THIRD-PARTY VENDORS, HOSTING PARTNERS AND SERVICE PROVIDERS TO PROVIDE THE NECESSARY HARDWARE, SOFTWARE, NETWORKING, STORAGE, AND RELATED TECHNOLOGY REQUIRED TO RUN THE FLEXERA WEB PORTAL, FLEXERA SERVICES INCLUDING THE HOSTING OF OUR FLEXERA USAGE INTELLIGENCE SDK AND FLEXERA SOFTWARE. YOU FURTHER UNDERSTAND THAT THE TECHNICAL PROCESSING AND TRANSMISSION OF THE SERVICES, INCLUDING YOUR CONTENT, MAY BE TRANSFERRED AND/OR RE-DIRECTED UNENCRYPTED OVER ONE OR SEVERAL NETWORKS AND MAY REQUIRE MODIFICATIONS TO CONFORM AND ADAPT TO TECHNICAL REQUIREMENTS OF INTERCONNECTING NETWORKS AND/OR DEVICES.

Flexera does not warrant that (i) the Flexera Web Portal, Flexera Services, Flexera Usage Intelligence SDK and/or Flexera Software will meet your specific requirements, or (ii) that they will be uninterrupted, timely, secure, or are error-free, free of viruses or other harmful components or (iii) that the results that may be obtained from their use shall be accurate or reliable, or (iv) that the quality of any products, services, information, or other material purchased or obtained by you through the Flexera Web Portal, Flexera Services, Flexera Usage Intelligence SDK and/or Flexera Software will meet your expectations, and/or (v) that any errors or defects therein can or will be corrected

YOUR RELIANCE ON AND USE OF THE FLEXERA SERVICES IS AT YOUR SOLE RISK. THE FLEXERA SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND "AS AVAILABLE" BASIS



YOU AGREE THAT FLEXERA SERVICES CAN BE DOWN FOR SCHEDULED AND/OR UNSCHEDULED SERVER/SERVICE MAINTENANCE OR UPGRADES. WHEN POSSIBLE WE WILL NOTIFY YOU BY EMAIL AND/OR ON OUR WEB PORTAL AT LEAST TWENTY FOUR (24) HOURS PRIOR TO SCHEDULED MAINTENANCE OR UPGRADES AND WE WILL MAKE REASONABLE EFFORTS TO MINIMIZE DOWNTIME AND GET THE SERVICE BACK TO FULLY OPERATIONAL PROMPTLY.

WHILE FLEXERA USES ITS BEST ENDEAVORS TO ENSURE CONTINUED AND SECURE PROVISION OF ITS SERVICES, YOU UNDERSTAND AND AGREE THAT DUE TO THE NATURE OF THE FLEXERA SERVICES AND THE INTERNET, IN NO EVENT SHALL FLEXERA AND/OR ITS RESPECTIVE SUPPLIERS BE LIABLE FOR ANY DIRECT, SPECIAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM THE RELIANCE BY YOU ON OUR WEB PORTAL AND FLEXERA SERVICES (INCLUDING THE FLEXERA SOFTWARE), FOR ANY LOSS OF USE, DATA, PROFITS OR GOODWILL OR OTHER LOSSES WHATSOEVER, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHER TORTIOUS ACTION, ARISING OUT OF OR IN CONNECTION

WITH *INTER ALIA* THE (I) USE OR PERFORMANCE OF SOFTWARE, DOCUMENTS, PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR INFORMATION AVAILABLE FROM THE SERVICES, OR (II) THE COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR (III) STATEMENTS OR CONDUCTS OF THIRD PARTIES, OR (IV) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR DATA OR (V) ANY OTHER MATTER RELATING TO YOUR USE OF OUR WEB PORTAL AND/OR FLEXERA SERVICES OR FLEXERA USAGE INTELLIGENCE SDK. HISTORICAL DATA IS RECORDED ONLY FOR YOUR CONVENIENCE PURPOSES AND FLEXERA DOES NOT GUARANTEE THAT SUCH DATA SHALL REMAIN ACCESSIBLE OR RECORDED INDEFINITELY.

IN ANY EVENT THAT SUCH EXCLUSION OF LIABILITY (OR PART THEREOF) IS NOT ENFORCEABLE, THE MAXIMUM LIABILITY OF FLEXERA SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY YOU TO FLEXERA IN THE THREE MONTHS PRIOR TO THE DEFAULT GIVING RISE TO SUCH LIABILITY.

YOU ARE ADVISED TO TAKE OUT NECESSARY INSURANCES TO COVER ANY RISKS AND TO MAKE ANY SECONDARY BACK-UPS FOR YOUR OWN USE.

As one feature of our Flexera Services, certain Login Account holders may, having downloaded our Flexera Usage Intelligence SDK (and successfully integrated it with their software) remotely access, view, read, and print statistics and other information via our online program application, provided that you understand that this feature of the Flexera Services shall not function unless and until you shall have obtained a Product ID, having created a Product Account through your Login Account in accordance with and subject to these TOU.

The use of this feature of the Flexera Services may be subject to such additional Flexera Usage Intelligence SDK License Agreement as may be notified to you, and all the TOU contained herein, and any Fair Usage Policy issued by us from time to time. For the avoidance of doubt, your use of the Flexera Services, including this feature, indicates your consent to our TOU, Fair Usage Policy and Flexera Usage Intelligence SDK License Agreement, if any. In the event that any terms contained in the Flexera Usage Intelligence SDK License Agreement or Fair Usage Policy conflict with these TOU, the provisions of the Flexera Usage Intelligence SDK License Agreement shall be deemed to supersede these TOU.

The use of the Flexera Services is subject to the Flexera Pricing Schedule, depending on the subscription plan purchased which varies according to the number of active installations of the Flexera Usage Intelligence SDK. Generally this is subject to a monthly fee, a pay per use above-quota basis fee, and/or prepaid bundle fees; provided that we reserve the right to amend our pricing structures and/or offer special offers from time to time. Depending on the subscription plan your entitlements may vary accordingly, including in respect of (a) the amount of user accounts authorized to use a single application, (b) the length of time during which your user history (which may include raw, processed, personally identifiable, statistical or analytics data or reports) may be retained on our servers hereinafter "**Historical Data**", (c) the amount of ReachOutTM messages you may send to your customers, (d) the email reports you may download or print, (e) sms reports, (f) feature tracking, (g) exception tracking and/or (h) applications managed through a single account, amongst other things which may vary from time to time. Other fees are payable for any add-ons.

You are advised to read and understand our subscription plan(s) prior to purchase, and to contact us in case of doubt. Any quotas, including where indicated as being "unlimited" are subject to our Fair Usage Policy. The most current version of our Fair Usage Policy can be reviewed by accessing <https://www.flexera.com/legal/privacy-policy.html>



You agree that the purchase and download of our Flexera Usage Intelligence SDK by you is deemed to render the Flexera Usage Intelligence SDK 'unsealed software' and an immediate provision of a service and therefore no right of withdrawal can be exercised also because by its nature, it cannot be returned. The purchase of a subscription plan is also deemed to be the immediate provision of a service and non-returnable and therefore no right of withdrawal can be exercised.

You agree that Flexera shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if we have been advised of the possibility of such damages), resulting from the use of Flexera Usage Intelligence SDK, any Flexera Software, or any Flexera Services or third-party products that access data via the Flexera Services) or from reliance upon any reports or Historical Data provided through the Flexera Services and/or Flexera Software.

For clarification, Flexera may use anonymous statistical data and intelligence generated by your use of the Web Portal, Flexera Usage Intelligence SDK, Flexera Software and/or Flexera Services for historical and comparative reasons, for improving support and maintenance and for improving and extending its business.

Actual or suspected abuse or excessively frequent requests beyond the parameters described in the Fair Usage Policy via the Flexera Services, including without limitation, any functionality related to the Flexera Usage Intelligence SDK and/or Flexera Software may result in the temporary or permanent suspension of a Login Account, any Product Account or any other Flexera Services offered.

Suspension, for whatsoever reason, of any Login Account (and/or Product Account) will mean that several functions of the Login Account, Product Account, Flexera Usage Intelligence SDK and/or Flexera Services will stop functioning and/or will no longer be available to you (and to such persons acting as Account Administrator and/or as Trusted Persons).

We have no control over how you use our Flexera Usage Intelligence SDK once you download it and integrate it with your software and therefore you shall be responsible for your use of the Flexera Usage Intelligence SDK and the data collected through the Flexera Services and/or Flexera Software. You will not, and will not encourage or permit any third party, to use the Flexera Services, including the Flexera Software to unlawfully track or collect personally identifiable information of any end-users, nor will you (or will you allow any third party to) unlawfully associate any data gathered through the Flexera Services, including the Flexera Software, with any personally identifying information of end-users.

The Flexera Services require the collection and processing of your end-user's IP address, which is used only for purposes of collating the country-of-origin of that end-user through a GeoIP service. Each installation of the Flexera Usage Intelligence SDK is identified with a unique auto-generated code to permit the continued and seamless recognition of the unique end-user, which auto-generated code will be processed anonymously by Flexera. Therefore, while you undertake to carry out all communications with your clients in a lawful manner, you shall at all times be responsible for respecting and protecting their privacy, confidentiality and similar rights. You will have and abide by an appropriate and lawful privacy policy and will comply with all applicable laws, including without limitation those laws relating to the collection and processing of information from end-users. YOU SHALL NOTIFY YOUR CLIENTS WITH A CLEAR, CORRECT AND UP-TO-DATE PRIVACY POLICY, WHICH POLICY MUST BE EASILY ACCESSIBLE AT ALL TIMES TO THEM. YOUR PRIVACY POLICY SHALL PROVIDE NOTICE OF YOUR USE OF THE FLEXERA SERVICES WITH YOUR TPS USED TO LAWFULLY COLLECT DATA ABOUT THE PERFORMANCE AND USE OF YOUR TPS BY YOUR CLIENTS. YOU SHALL INFORM YOUR CLIENTS THAT YOUR SOFTWARE (AND ANY ASSOCIATED TPS) IMPLEMENTS A CALL-HOME SYSTEM WHICH COLLECTS AND PROCESSES DATA, which MAY INCLUDE WITHOUT LIMITATION PERSONALLY IDENTIFIABLE DATA AS WELL AS CERTAIN STATISTICAL DATA, AND TRANSMITS THIS DATA TO A CLOUD SERVER FOR STORAGE AND FURTHER PROCESSING BY YOURSELF AND FLEXERA AND/OR FLEXERA'S PARTNERS, THIRD-PARTY SERVICE PROVIDERS, AND/OR CORPORATE AFFILIATES.

You understand that certain uses of the Flexera Usage Intelligence SDK, the Flexera Software, and the Flexera Services, including the processing of personal and sensitive data, may be subject to certain laws, regulations and/or codes of conducts which may vary depending on the jurisdiction. Flexera accepts no responsibility whatsoever in this respect and it is your obligation to ensure that the use of our Flexera Services, including the Flexera Usage Intelligence SDK and the Flexera Software, is lawful and does not infringe any laws or violate any right of third parties in each jurisdiction where you make your software and services available. You agree to indemnify, hold harmless and defend Flexera, its Corporate Affiliates and any of their officers, directors, employees, agents or affiliates, at your expense, from and



against any and all third-party claims, actions, proceedings, and suits brought against Flexera, its Corporate Affiliates, or any of their officers, directors, employees, agents or affiliates, and all related liabilities, damages, settlements, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys' fees and other litigation expenses) incurred by Flexera, its Corporate Affiliates, or any of their officers, directors, employees, agents or affiliates, arising out of or relating to (i) your breach of any term or condition of this Agreement, (ii) your use of the Flexera Services (including the Flexera Usage Intelligence SDK and Flexera Software), (iii) Your violations of applicable laws, rules or regulations in connection with the Flexera Services or the Flexera Usage Intelligence SDK License Agreement, or (iv) your brand features. In such a case, Flexera will provide you with written notice of such claim, suit or action. You shall cooperate as fully as reasonably required in the defense of any claim. Flexera reserves the right, at its own expense, to assume the exclusive defense and control of any matter subject to indemnification by you. If you provide access to your Login Account or any portion thereof to any third party or use the Flexera Services to collect information on behalf of any third party, whether or not you are authorized to do so by Flexera or its Corporate Affiliates, the terms of this clause shall apply to you.

Flexera reserves the right, in its sole discretion, to determine cases of abuse or excessive usage and may (but is not obligated to) make a reasonable attempt via email to warn the account owner prior to suspension. Flexera reserves the right to modify or terminate the service for any reason, without notice at any time.

UNLAWFUL AND/OR PROHIBITED USE OF FLEXERA SERVICES

As a condition of your use of our Web Portal and/or the Flexera Services, you will not use, attempt to use or encourage the use by third parties of the Web Portal and/or any Flexera Services for any purpose that is unlawful or prohibited by this Agreement, including these TOU and any terms, conditions, and notices contained herein.

You may not use, encourage or permit the use of the Web Portal and/or Flexera Services in any manner that could damage, disable, overburden, or impair any Flexera server, or the network(s) connected to any Flexera server, or interfere with any other party's use and enjoyment of any Services. You must not modify, adapt or hack the Flexera Services or modify another website so as to falsely imply that it is associated with Flexera or any Flexera Services (including the Flexera Software).

You may not attempt to gain unauthorized access to any Flexera Services, other accounts, computer systems or networks connected to any Flexera server or to any of the Flexera Services, through hacking, password mining or any other means. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available through the Flexera Services.

You further agree not to use the Web Portal and/or any Flexera Services to store, send or post any message or material that is unlawful, harassing, defamatory, abusive, indecent, threatening, harmful, vulgar, obscene, sexually orientated, racially offensive, profane, pornographic or violates any applicable law and you hereby indemnify Flexera and its Corporate Affiliates against any loss, liability, damage or expense of whatever nature which the Flexera, any of its Corporate Affiliates, or any third party may suffer which is caused by or attributable to, whether directly or indirectly, your use of the Web Portal and/or Flexera Services to send or post any such message or material.

Any direct or indirect verbal, physical, written or other abuse (including threats of abuse or retribution) of any Flexera customer, employee, member, or office will result in immediate suspension or termination of your Login Account and any Product Account(s).

Flexera reserves the right to suspend and or terminate an account (with or without prior notice) if the Flexera Usage Intelligence SDK or any of our Flexera Services (including the Flexera Software) is not being used as intended, is being abused, or used in a way beyond what Flexera deems to be 'normal usage' or in breach of our Fair Usage Policy, or if any act or omission by you is likely to negatively affect our systems or services.

USE OF ANCILLARY SERVICES

Our Web Portal and the Flexera Services may contain email services, bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, photo albums, file cabinets and/or other message or communication facilities, including ReachOuttm designed to enable you to upload information and/or to otherwise communicate with others, (each, a "**Communication Service**").

Materials uploaded to the Communication Services may be subject to posted rules and limitations on usage, reproduction and/or dissemination; you are responsible for adhering to such limitations if you download the materials.



You agree to use the Communication Services only to post, store, send and receive messages and material that are proper and lawful and, when applicable, related to the particular Communication Service.

Amongst other things you agree that you shall not directly and/or indirectly:

- (i) Create a false identity for the purpose of misleading others.
- (ii) Upload or transmit files that contain viruses, Trojan horses, worms, time bombs, cancel bots, corrupted files, or any other similar software or programs that may damage the operation of another's computer or property of another.
- (iii) Falsify or delete any copyright management information, such as author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded.
- (iv) Use the Communication Services in connection with surveys, contests, pyramid schemes, chain letters, junk email, spamming or any duplicative or unsolicited messages (commercial or otherwise).
- (v) Defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others.
- (vi) Store, publish, post, upload, distribute or disseminate any inappropriate, profane, defamatory, obscene, indecent or unlawful topic, name, material or information including pornographic or illegal data whether as imagery, videos, sound or in whatsoever other format, whether on our servers or otherwise.
- (vii) Upload, store, share or otherwise make available, whether on our servers or otherwise, files that contain images, photographs, software or other material protected by intellectual property laws, including, by way of example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity) unless you own or control the rights thereto or have received all necessary consent to do the same.
- (viii) Use any material or information, including images or photographs, which are made available through the Communication Services or other Flexera Services in any manner that infringes any copyright, trademark, patent, trade secret, or other proprietary right of any party.
- (ix) Advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Services specifically allows such messages.
- (x) Download any file posted by another user that you know, or reasonably should know, cannot be legally reproduced, displayed, performed, and/or distributed in such manner.
- (xi) Restrict or inhibit any other user from using and enjoying the Communication Services.
- (xii) Violate any code of conduct or other guidelines which may be applicable for any particular Communication Service.
- (xiii) Harvest or otherwise collect information about others, including email addresses.
- (xiv) Violate any applicable laws or regulations.
- (xv) Use, download or otherwise copy, or provide (whether or not for a fee) to a person or entity any directory of users of the Services or other user or usage information or any portion thereof.

Flexera has no obligation to monitor the Communication Services. However, Flexera reserves the right to review materials posted to the Communication Services and to remove any materials in its sole discretion.

We may, but have no obligation to, remove content and Login Accounts and/or any Product Account containing content that we determine in our sole discretion to be unlawful, offensive, threatening, libelous, defamatory, obscene, pornographic or otherwise objectionable or violates any party's intellectual property or these TOU. Flexera reserves the right to suspend and/or terminate your access to any or all of the Communication Services at any time, without notice, for any reason whatsoever.



Flexera reserves the right at all times to disclose any information as Flexera deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in Flexera's sole discretion. Flexera further reserves the right to blacklist and publish any person who directly or indirectly is or is likely to be a spammer or malicious user.

PERSONAL DATA AND DATA PROTECTION

For the purposes of the European Union Data Protection Directive (95/46/EC) (the "**Directive**") and any applicable national legislation implementing the Directive including without limitation the Data Protection Act, Chapter 440 of the Laws of Malta), you will be considered to be the Data Controller and as a result you undertake to obtain any and all data protection consents and to provide any notices required to permit Flexera to hold, use, disclose or otherwise process any Personal Data generated (where "**Data Controller**" and "**Personal Data**" have the same meaning as in the Directive) for the purposes of providing the Flexera Services.

Flexera shall process the Personal Data only on and subject to your instructions from time to time and shall not process the Data for any other purpose. Flexera shall implement and maintain appropriate technical and organizational security measures against unauthorized access to, or unauthorized alteration, disclosure or destruction of, the Personal Data.

You agree that you shall remain solely responsible for determining the contents and use of the Personal Data. You acknowledge that you (or the Legal Entity you represent) are the Data Controller in relation to the Personal Data and Flexera is a Data Processor in relation to the Personal Data.

The Flexera Services require the collection and processing of end-user's IP addresses which are used only for purposes of collating the country-of-origin of that end-user through a GeoIP service. While Flexera undertakes to carry out all communications with your end-users in a lawful manner, You shall at all times be responsible for respecting and protecting end-user privacy, confidentiality and similar rights. You will have and abide by an appropriate and lawful privacy policy and will comply with all applicable laws relating to the collection and processing of information from end-users. You will not, and will not encourage or permit any third party, to use the Flexera Services to unlawfully track or collect personally identifiable information of any end-users. It is your obligation to ensure that the use of Flexera Services, including the Flexera Usage Intelligence SDK and the Flexera Software, is lawful and does not infringe any laws or any right of third parties in any country.

YOU SHALL NOTIFY END-USERS OF THE TPS WITH A CLEAR, CORRECT AND UP-TO-DATE PRIVACY POLICY, WHICH POLICY MUST BE EASILY ACCESSIBLE AT ALL TIMES TO THEM. YOU SHALL INFORM YOUR END-USERS THAT THE SOFTWARE (AND ANY ASSOCIATED TPS) IMPLEMENTS A CALL-HOME SYSTEM WHICH COLLECTS AND PROCESSES DATA, which MAY INCLUDE WITHOUT LIMITATION PERSONALLY IDENTIFIABLE DATA AS WELL AS CERTAIN STATISTICAL DATA, AND TRANSMITS THIS DATA TO A CLOUD SERVER FOR STORAGE AND FURTHER PROCESSING BY YOURSELF AND FLEXERA AND/OR FLEXERA'S PARTNERS, THIRD-PARTY SERVICE PROVIDERS, OR CORPORATE AFFILIATES.

Flexera retains the right to utilize servers located both within and outside the European Union and the European Economic Area and to this regard you must ensure that any Data Subject (as defined in the Directive) gives consent to such transfer of data.

CAUTION – YOUR PERSONAL DATA

Always use caution when giving out any personally identifiable information about yourself, your friends or your children in any Communication Services. Flexera does not control or endorse the content, messages or information found in any Communication Services and, therefore, Flexera specifically disclaims any liability with regard to the Communication Services and any actions resulting from your participation in any Communication Services.

MATERIALS YOU PROVIDE

Flexera does not claim ownership of the materials you provide. However, by posting, uploading, inputting, providing or submitting any submission on or through our Web Portal, Helpdesk, Community area or Flexera Services you hereby grant Flexera, its Corporate Affiliates and necessary sub-licensees permission to use your submission in connection with the operation of their businesses (including, without limitation, all Flexera Services), including, without limitation, the royalty-free and perpetual license rights to copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate and reformat your submission; to publish your name in connection with your submission; and to sublicense such rights to any supplier of the Flexera Services.

No compensation will be paid with respect to the use of your submission, as provided herein. Flexera is under no obligation to post or use any submission you may provide and Flexera may remove any submission at any time in its sole discretion.



By making a submission you warrant and represent that you own or otherwise control all of the rights to your submission as described in these TOU including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the submissions.

In addition to the warranty and representation set forth above, by posting a submission that contain images, photographs, pictures or that are otherwise graphical in whole or in part ("**Images**"), you warrant and represent that:

- (a) you are the copyright owner of such Images, or that the copyright owner of such Images has granted you permission to use such Images or any content and/or images contained in such Images consistent with the manner and purpose of your use and as otherwise permitted by these TOU and the Flexera Services,
- (b) you have the rights necessary to grant the licenses and sublicenses described in these TOU, and
- (c) that each person depicted in such Images, if any, has provided consent to the use of the Images as set forth in these TOU, including, by way of example, and not as a limitation, the distribution, public display and reproduction of such Images.

By posting images, you are granting permission to use your Images in connection with the use, as permitted by these TOU, of any of the Flexera Services, and including, without limitation, a non-exclusive, world-wide, royalty-free license to: copy, distribute, transmit, publicly display, publicly perform, reproduce, edit, translate and reformat your Images without having your name attached to such Images, and the right to sublicense such rights to any supplier of the Flexera Services. No compensation will be paid with respect to the use of your Images.

TERMINATION OF YOUR FLEXERA SERVICE(S) AND ACCOUNT(S)

If you desire to terminate your Login Account you must contact us to terminate your Login Account and Flexera Services by sending a support ticket via our helpdesk at <https://community.flexera.com/t5/Usage-Intelligence/ct-p/Usage-Intelligence>. You are responsible for properly cancelling your Login Account according to the stipulated procedures. In such event, if at the time you make the request you are the sole Account Administrator of a Product Account you shall first be required to terminate the Product Account and/or assign your full administration rights to a Trusted Person before we can terminate your Login Account.

As an Account Administrator or as Trusted Person having full administration rights you may cancel a Product Account by accessing the "Product Administration Page" through your Login Account. If the Product Account has multiple administrators Flexera shall not require authorization of all the said administrators prior to termination even though it may, in its discretion, notify all said administrators that the Product Account may be or has been terminated.

Upon termination of your Login Account and/or a Product Account, all Flexera Services and any Historical Data which may have been stored to be accessed by you through our Flexera Services shall no longer be available for access or use by you unless a purchase by means of a separate written agreement for the exchange and transfer of such data is entered into as a condition prior to termination. All and any Historical Data, content, data, statistics or other information whatsoever related to or resulting from your Login Account, any Product Account, and Flexera Services may be immediately deleted. This information cannot be recovered once your Login Account and/or Product Account is cancelled provided that Flexera reserves the right to retain anonymous data for historical and comparative reasons, for improving support and maintenance and for improving and extending its business.

Upon suspension or termination for any reason whatsoever or upon request by you for termination, whichever is the earlier, any outstanding balance owed to Flexera by you becomes immediately due and payable and any collection expenses (including attorneys' fees) incurred by us and interests will be included in the amount owed, and may be charged to the credit card or other billing mechanism associated with your account. Late payments may, at our discretion, incur a lawful interest rate from the date such payment was due. For avoidance of any doubt, until all such outstanding balances or dues owed to us have been fully paid up you and any Account Administrator shall remain responsible towards Flexera.

Any breach of the Agreement including these TOU may result in the deactivation or deletion of your Login Account and/or Product Account(s) and/or your access to your Login Account and/or Product Account(s), and/or the forfeiture and relinquishment of all information in and relating to your Login Account and/or Product Account(s).

EXTERNAL LINKS TO THIRD PARTY SITES



Some links on our Web Portal may require you to leave the Web Portal and access a third-party site ("**linked site**").

The linked sites are not under the control of Flexera and Flexera is not responsible for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites. Use or reliance on any external links and the content thereon provided is at your own risk. When visiting external links you must refer to that external websites terms and conditions of use.

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All Flexera trademarks, names, service marks, logos and tradenames displayed on this Web Portal or through any Flexera Service are the property of Flexera and/or its Corporate Affiliates, as the case may be, whether registered or otherwise, and nothing contained herein should be construed as granting, transferring or assigning any license or rights therein. Any rights not expressly granted herein are reserved.

EXPORT CONTROLS

You shall not and shall not allow any third party to access, download, use, export or re-export any part of the Flexera Web Portal, Software, or Services in violation of applicable export or import restrictions, laws or regulations of the United States or any other foreign agency or authority.

CONFLICT

Where any conflict or contradiction appears between the provisions of these TOU use and any other relevant terms and conditions, policies or notices, the other relevant terms and conditions, policies or notices which relate specifically to a particular page or functionality of the Web Portal shall prevail in respect of your use of the relevant page or functionality of the Web Portal.

WAIVER

No extension of time which either you or Flexera may grant will constitute a waiver of or limit any of the existing or future rights of the grantor in terms hereof, save in the event or to the extent that the grantor has signed a written document expressly waiving or limiting such rights.

CESSION

Flexera shall be entitled to cede, assign and delegate all or any of its rights and obligations in terms of any relevant terms and conditions, policies and notices to any third party.

SEVERABILITY

All provisions of any relevant terms and conditions, policies and notices are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of any relevant terms and conditions, policies and notices, which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto*, provided that the intention of the parties shall be enforced to the extent lawful and the remaining provisions of any relevant terms and conditions, policies and notices shall remain in full force and effect.

GOVERNING LAW AND VENUE

The Agreement including these TOU and any relevant terms and conditions, policies and notices shall be governed by and construed in accordance with U.S. federal law and the laws of the Commonwealth of Massachusetts, and any legal action or proceeding hereunder and/or otherwise relating to the Web Portal, the Flexera Services, and/or the Agreement including these TOU and any relevant terms and conditions, policies and notices shall be instituted in a state or federal court in Middlesex County, Massachusetts. You and Flexera agree to submit to the jurisdiction of, and agree that venue is proper in, these courts.



COMMENTS OR QUESTIONS

If you have any questions, please **contact us** at: https://community.flexera.com/t5/Flexera-Software-Community/ct-p/Flexera_Software_Community.