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- 14. <u>U.S. Government End-Users</u>. The Software is commercial computer software. If the User or Licensee of the Software is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Software was developed fully at private expense. All other use is prohibited. Licensee shall flow-down this provision to any of its authorized sublicensees (including but not limited to any Licensee Products, as applicable).
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- 16. Third-Party Code. The Software may contain or be provided with components subject to the terms and conditions of "open source" software licenses ("Open Source Software"). Open Source Software may be identified in the Documentation, or Flexera Software shall provide a list of the Open Source Software for a particular version of the Software to Licensee upon Licensee's written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.
- 17. <u>Equal Opportunity</u>. Flexera Software agrees that it does not and will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, handicap, national origin, or sexual orientation.
- 18. <u>Ambiguities.</u> Each party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.
- 19. <u>Entire Agreement</u>. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

#### Addendum 1 Service Provider Addendum

This addendum applies to licenses of Software that Licensee purchases to use in the provision of services to its Customers, as defined below. Any terms not defined in this Addendum shall have the meanings ascribed to them in the Agreement. Unless otherwise set forth herein, the provisions of this Addendum shall be in addition to, and not in lieu of, the terms included in the main body of the Agreement.

#### 1. Definitions.

"Customers" means the customers of Licensee for which Licensee has purchased a license to use the Software to provide Software Engineering Services. Licensee shall be solely responsible for the Customer relationship; Flexera Software shall have no obligations whatsoever to Customers.

"Software Engineering Services" means those services which Licensee provides to Customers utilizing the Software.

2. Software License. Subject to all of the terms and conditions of this Agreement and notwithstanding the license grant in Section III.1.a. of the Agreement, during the term specified on the applicable invoice, Flexera Software grants Licensee a nonexclusive, nontransferable license to use the Software and any related Documentation and Updates in accordance with the scope of the license defined herein, for the purpose of providing Software Engineering Services to Licensee's Customers (a "Licensee"). Unless otherwise set forth in an Order Schedule, Licensee may install and operate the Software and Updates only on computers owned or leased by Licensee, located at (i) a Licensee Site or (ii) at a Customer location.

#### 3. Licensee Obligations.

- 3.1. Representations. Licensee shall not make any representations, guarantees or warranties of any type with respect to the specifications, features, capabilities or otherwise concerning the Products which are in addition to or inconsistent with those set forth in the product descriptions or promotional materials delivered by Flexera Software to Licensee hereunder. In no event shall Licensee make any representation, warranty or guarantee by or on behalf of Flexera Software. Licensee is not to re-brand or otherwise represent the software as anything other than the product name specified by Flexera Software LLC without express written approval from Flexera Software. This shall include, but not be limited to, reports, splash screens, documentation and all other intellectual property.
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- 3.3. <u>Licensee Indemnity</u>. Licensee will defend, indemnify and hold harmless Flexera Software from and against any loss, cost, liability or damage, including attorneys' fees, for which Flexera Software 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 Software or (c) any other act or omission of Licensee in connection with the marketing or distribution of the Software under this Agreement.
- 3.4. <u>Software Engineering Services Site</u>. Upon request, Licensee shall identify the site of the performance of the Software Engineering Services.
- **4. Trademarks.** Licensee may use Flexera Software's trademarks in connection with the Software. All displays of Flexera Software's trademarks that Licensee intends to use will conform to reasonable guidelines provided from time to time by Flexera Software. Flexera Software will have the right to approve all usage by Licensee of

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