

FLOWMON NETWORKS LICENSE AGREEMENT FOR SERVICE PROVIDERS

IMPORTANT: THIS LICENSE AGREEMENT IS CREATED FOR AUTHORISED SERVICE PROVIDERS ONLY AND SHALL NOT BE APPLIED TO END USERS. PLEASE READ THIS LICENSE AGREEMENT BEFORE INSTALLATION, COPYING, DOWNLOAD OR USE OF THE FLOWMON NETWORKS PRODUCT THAT YOU ARE ATTEMPTING TO DOWNLOAD, INSTALL, COPY, USE OR THAT OTHERWISE ACCOMPANIES OR IS PROVIDED WITH THIS LICENSE AGREEMENT. IF YOU DO NOT UNCONDITIONALLY AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DOWNLOAD, COPYING, INSTALLATION OR USE OF THE PRODUCT IS STRICTLY PROHIBITED. BY CLICKING ON THE “I ACCEPT” BUTTON, DOWNLOADING, INSTALLING OR OTHERWISE USING OR OBTAINING OF THE PRODUCT, THE CORPORATION, COMPANY, PARTNERSHIP OR OTHER ENTITY THAT YOU REPRESENT IS UNCONDITIONALLY CONSENTING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANY CORPORATION, COMPANY PARTNERSHIP OR OTHER ENTITY, YOU REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO LEGALLY BIND SUCH ENTITY TO THIS AGREEMENT. THE SOFTWARE CONTAINED IN THE PRODUCT IS PROTECTED BY COPYRIGHT LAWS AND INTERNATIONAL COPYRIGHT TREATIES AS WELL AS OTHER INTELLECTUAL PROPERTY LAWS AND TREATIES. THE SOFTWARE CONTAINED IN THE PRODUCT IS LICENSED, NOT SOLD.

1. INTRODUCTORY PROVISIONS

- 1.1** This License Agreement (“**Agreement**”) stipulates rights and obligations under which authorized service providers (“**SP**”) may use software products (“**Product**”) provided by **Flowmon Networks a.s.**, a company established and existing under the laws of the Czech Republic, having its registered office at Sochorova 3232/34, 616 00 Brno, Czech Republic, ID No.: 27730450, registered in the Commercial Register maintained by the Regional Court in Brno, section B, insert 4906 (“**Flowmon**”), in connection with SP’s other services and also conditions and restrictions upon which the SP shall be entitled to grant its customers (“**Customers**”) a sub-license to use the Product in the scope specified in this Agreement.
- 1.2** The SP obtains the Product based on a separate contract, purchase order or any similar document, based on which the Product shall be provided to the SP, concluded between the SP and Flowmon or between Flowmon’s authorized reseller or distributor and the SP (“**Contract**”).
- 1.3** The Product may be provided to the SP:
- (a) jointly with hardware, on which the Product may be also directly embedded on or preinstalled; or
 - (b) as a software provided on a standalone basis.
- 1.4** This Agreement shall apply to any Product provided to the SP in any way in compliance with Section 1.3 of this Agreement. This Agreement shall apply to any newer versions, updates, or changes to the Product.
- 1.5** Documents to which this Agreement refers and other possible arrangements with the SP are integral part of this Agreement. In case of discrepancy between the Contract and this Agreement, this Agreement shall prevail.

2. LICENSE

- 2.1** By concluding the Contract, by clicking the button “I ACCEPT”, downloading, copying, installing, obtaining or otherwise using the Product the SP agrees without reservation with this Agreement. Flowmon grants the SP the right to use the Product in accordance with this Agreement (“**License**”) and other terms of the Contract.
- 2.2** The License represents a limited, non-exclusive, non-transferable and non-assignable right, but with the right to sublicense the License to its Customers as mentioned hereunder, to use the

Product.

- 2.3** If the Product is provided to the SP as software on a standalone basis under the Contract, Flowmon also grants the SP the right to install one (1) copy of the Product on one (1) hardware or into one (1) virtual environment per one (1) License bought. The number of License bought by the SP is set out in the Contract and the SP may purchase more Licenses under conditions stipulated in the Contract. The SP is obliged to restrain from any additional installation of the Product in contradiction with this provision.
- 2.4** The License is furthermore granted
- (a) without any territorial limitations (unless such are defined in the Contract), with the exception of countries for which the U.S. Export Administration Regulations, European Union or other relevant body regulations prohibit export transactions;
 - (b) for the duration set out in the Contract; and
 - (c) for the manner, means and methods of use for which the Product was created and provided to the SP.
- 2.5** The SP is expressly entitled to sub-license the License in order to allow use of the Product to its Customer, but only in the scope and subject to the limitations, restrictions and conditions set out in Section 5 (“**Sub-license**”)
- 2.6** Source codes are not provided to the SP. The SP shall have no right to obtain or use source codes of the Product.
- 2.7** The SP is entitled to create copies of the Product as may be necessary for backup and archival purposes only. Such backup copies must be stored securely with access allowed only to authorized personnel. The SP shall prevent any unauthorized access to such backup copies.
- 2.8** The Product may contain third party software including open source software. The use of third party software is governed by separate terms and conditions relevant for each such software product.
- 2.9** Following the expiry of the License period or its termination, the SP shall:
- (a) no longer use the Product;
 - (b) destroy and remove all copies of the Product, including backups, from its computers, hard drives, networks, systems and any other storage media;
 - (c) return or remove all other information, documents obtained from Flowmon relating to the Product;
 - (d) ensure that all aforementioned obligations are fulfilled by its Customers to which the Sub-license was granted; and
 - (e) on Flowmon's request confirm and certify the fulfilment of the aforementioned obligations to Flowmon in writing.

3. SP’S RIGHTS AND OBLIGATIONS

- 3.1** The Product shall be used only for the purpose of provision of services to Customers, and under SP’s supervision and at its liability.
- 3.2** The SP shall:
- (a) use the Product in compliance with this Agreement, the Contract, relevant documentation and applicable laws and regulations, particularly with those governing the processing of personal or sensitive data;
 - (b) ensure that all computer programs and hardware used in conjunction with the Product are free from any defects that may have a negative effect on the functionality or operation of the Product;

- (c) ensure to have implemented its own disaster recovery plans including necessary measures to replace the Product in its infrastructure (including data backups, security of data traffic, data protection and a redundancy of critical systems);
- (d) promptly inform Flowmon of any infringement of Flowmon's rights in relation to the Product, and provide Flowmon with necessary assistance in establishing Flowmon's claim regarding the infringement of the rights to the Product;
- (e) refrain from making public and promptly inform Flowmon of any discovered vulnerabilities of the Product and of any errors or faults incurred or discovered while using the Product, and provide Flowmon with any necessary cooperation in order to address and fix such vulnerabilities, errors or faults, in particular to allow Flowmon without undue delay full access to the hardware on which the Product was used and to any other software with which the Product was used;
- (f) allow Flowmon to perform an audit of proper use of the Product in accordance with this Agreement and the Contract and provide Flowmon with necessary cooperation as well as true and accurate information and documents to allow Flowmon to perform such an audit.

3.3 The SP shall also undertake all reasonable steps to prevent the occurrence of any material or non-material damage, in particular, the SP:

- (a) is required to use the Product with compatible software and hardware at all time;
- (b) shall have appropriate licenses for all other software installed on the device ("**Other Software**") on which the Product is used;
- (c) is obliged to have the Product and all the Other Software properly updated with the latest available updates and patches;
- (d) is obliged to verify with Flowmon compatibility of the Product with the Other Software;
- (e) shall regularly at appropriate intervals, especially before performing any updates, back-up all configuration settings located on the hardware or virtual environment on which the Product is used; and
- (f) is obliged to properly train all persons working with the Product, including its Customers, and ensure refresher training for all persons using the current version of the Product is made at regular intervals.

3.4 The SP shall not:

- (a) reproduce, distribute, lend, borrow, sell, rent and lease the Product and all copyrighted works or databases contained therein, whether free of charge or not, with the exception of (i) evaluation versions of the Product available for download from Flowmon's websites, which may be freely distributed by any means and without need of any prior permission of Flowmon, (ii) situations representing granting the Sub-license to its Customers in compliance with Section 5 of this Agreement, and (iii) situations in which Flowmon expressly gave the SP a prior written consent;
- (b) transfer, assign or sub-license the Product or any other kind of right to use the Product and all copyrighted works and databases contained therein to any other third parties, with the exception of the Sub-license to its Customers in compliance with Section 5 of this Agreement;
- (c) modify, edit, change, transcribe, examine, derive, disassemble, compile, decompile, alter, reverse engineer or otherwise modify or translate the Product and any copyrighted works and databases contained therein, its titles, author's designation and any other data relating to the designation of such Product and copyrighted works and databases contained therein, with an exception of its configuration in accordance with the Contract and/or Product's documentation;

- (d) combine or use the Products and all copyrighted works and all databases contained therein together with any other works, parts, materials, products or any other object of intellectual property, and to include the Product and all copyrighted works and databases contained therein in any other collective work, with an exception of other software that may be interconnected or integrated with the Product via respective Product's API (application programming interface) and other software that may be necessary to use the Product the way for which was provided to the SP, in particular software required to provide services to its Customers, which are mentioned in the Contract, in such a case the Product may be used with such software, but may not be combined with it;
- (e) remove or modify any indication concerning copyrights, trademarks, trade names or other intellectual or industrial property rights from the Product, including indications concerning the confidential character and the confidentiality of the Product, unless such modification is allowed by a Product feature;
- (f) develop any other software or other copyright work based on the Product;
- (g) use the Product in the manner, which is not expressly authorized by Flowmon within this Agreement or allowed pursuant to a provision of the applicable law that cannot be waived (mandatory law / public order); should the SP have any doubts whether the Product may be used in some way, the SP is obliged to contact Flowmon and request a prior consent of Flowmon in writing.

4. FEES AND SUPPORT SERVICES

- 4.1** The License is granted for a fee agreed in the Contract. Unless otherwise agreed, Flowmon or respective Flowmon's distributor or reseller (according to the respective Contract) may invoice the SP for the license fee under payment terms stipulated in the Contract.
- 4.2** Unless otherwise agreed in the Contract, the SP is not entitled to any support and maintenance services ("**Support Services**").
- 4.3** Should the SP have any Support Services agreed in the Contract, such Support Services shall be provided by Flowmon or its authorised partners under terms and conditions stipulated therein. Any supplemental software code provided to the SP as part of the agreed Support Services shall be considered as part of the Product and subject to the terms and conditions of this Agreement.
- 4.4** Support Services encompass receiving "Updates" to the current version of the Product you license. In an effort to improve the Product and develop such Updates, the Product contains features that allow Flowmon to remotely and automatically identify, track and analyze certain aspects of use and performance of Product and/or the systems on which it is installed, as well as the operator and operating environment (including problems and issues that arise in connection therewith). You may disable this Update feature of the Product at any time, otherwise you hereby agree that Flowmon may use any data and information it collects strictly for its internal purposes. Flowmon will protect and keep confidential such information, not use such information for reasons other those discussed in this Agreement, and not sell, distribute or pass on such information to any third party.
- 4.5** Should the SP require Support Services, in which Flowmon may access and/or process confidential data and/or personal data of data subjects on behalf of the SP while providing such Support Services, the SP is, before commencing the provision of requested Support Services, obliged to (i) inform Flowmon about such accessing and/or processing of confidential and/or personal data and (ii) evaluate the need of conclusion of the data processing agreement and conclude such data processing agreement with Flowmon, if necessary. In any case, Flowmon agrees and covenants to implement appropriate technical and organisational measures and ensure the protection of the rights of the data subjects and a level of security appropriate to risks that are presented by such processing, in particular from accidental or unlawful destructions, losses, alterations, unauthorised disclosures of, or accesses to personal data and confidential information.

5. SUBLICENSING OF THE LICENSE TO CUSTOMERS

- 5.1** The SP may grant the Sub-license to its Customers only if the Customer enters into the SP's subscription services agreement which shall at least consist of the license terms stipulated in **Schedule 1** [*Scope of the Sub-license*] of this Agreement ("**Subscription Agreement**").
- 5.2** The SP acknowledges that the failure to conclude the Subscription Agreement at least in the extent stipulated in this Agreement with each its Customer shall be deemed a material breach of this Agreement which may result in termination of this Agreement in a whole or in suspension or termination of operation of the Product to the respective Customer as reasonably necessary for the protection of Flowmon's rights. The SP shall be solely liable for any harm caused due to such suspension or termination to any Customer, with whom the Subscription Agreement was not concluded.
- 5.3** The SP shall be also liable for any action or inaction by its Customer that is in violation of the terms and limitations of the Subscription Agreement.
- 5.4** The SP is furthermore obliged to provide Flowmon with any reasonably required cooperation in pursuing any legal actions against its Customers for any violations of the Subscription Agreement.

6. COPYRIGHTS

- 6.1** All titles, including but not limited to copyrights, in and to the Product and any copies thereof are owned by Flowmon or its suppliers. The SP does not acquire any ownership of intellectual property rights in or to the Product as a result of this Agreement.
- 6.2** The SP reserves and retains sole and exclusive ownership of all rights, titles and interests in and to all data, information, and other content that is input, uploaded to, placed into, or collected, stored, processed, generated, or output by the SP (the "**SP Data**"); provided, however, that the SP Data does not include the Product or data, information, or content irrespective of the form that is generated automatically upon executing the Product without additional user input. The SP agrees that Flowmon may use and exploit the SP Data for statistics, software development and other purposes; provided, however, that Flowmon shall not disseminate or reveal the SP Data to a third party. Should Flowmon require any consent or permission of any other person or entity, in particular of the respective Customer, to process such SP Data as stipulated in previous sentence, the SP is obliged to ensure that such consent or permission is granted and the SP is liable for any harm caused due to using, processing and analysing such SP Data without the required consent or permission.
- 6.3** Any other title and intellectual property rights in and to the content which may be accessed through use of the Product and are not SP Data is the property of the respective content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement grants the SP no rights to use such content. Any other rights not expressly mentioned in this Agreement are reserved by Flowmon

7. LIABILITY AND WARRANTIES

- 7.1** Flowmon is not aware of any malware or other harmful code included in the Product.
- 7.2** The use of the Product and its sublicensing to Customers is at SP's own risk and the Product is provided to the SP on an "AS IS" and "AS AVAILABLE" basis, without express or implied warranty or condition of any kind. To the extent permitted by law, Flowmon disclaims all warranties and conditions, express or implied, of any kind, including but not limited to any warranties of merchantability, fitness for a particular purpose, and non-infringement. Flowmon does not warrant or assume responsibility for the availability of the Product, accuracy or completeness of any information, text, graphics, links or other items contained within the Product, including, but not limited to, any errors or omissions contained therein, libel, infringements of any third party rights and rights of publicity, privacy, trademark rights, business interruption, personal injury, loss of privacy, moral rights or the disclosure of confidential information. Flowmon makes no warranties with respect to any harm that may be caused by the transmission

of a computer virus, worm, or other such computer program. Flowmon further expressly disclaims any warranty or representation with the same extent to any other users or to any third party, including Customers.

- 7.3** If any third party claims against the SP or its Customers that the Product, used in accordance with this Agreement or the Sub-license, violates any of its copyrights, patents, trademarks, or other intellectual property rights, the SP shall inform Flowmon about such claims without undue delay. In such a case, Flowmon may modify the Product, procure the necessary rights, or replace it with the functional equivalent. If Flowmon determines that none of these are available after making reasonable commercial efforts, Flowmon may terminate this Agreement, the SP shall return the Product to Flowmon and the SP shall receive a refund of any prepaid license fees from the respective entity to which the SP shall pay the license fee (i.e. Flowmon or the respective Flowmon's distributor or Flowmon's reseller).
- 7.4** Nothing in this Agreement shall exclude or limit Flowmon's liability for damages which may not be lawfully excluded or limited by applicable law.
- 7.5** To the maximum extent permitted by applicable law, Flowmon shall not be liable for any consequential, incidental, indirect, punitive, or special damages of any kind, or any damages whatsoever, or business interruption, loss of profits or revenues, whether incurred directly or indirectly, or any loss of data, use, goodwill or other intangible losses, resulting from
- (a) SP's and Customer's access to or use of, or inability to access or use, the Product;
 - (b) any content obtained from the Product;
 - (c) unauthorized access, use, or alteration of the Product or its content; or
 - (d) any conduct or content within the Product made by the SP and/or its end users, including Customers.
- 7.6** The limitations of this Section 7 (*Liability and Warranties*) shall apply to any theory of liability, whether based on warranty, contract, statute, tort (including negligence), or otherwise, and whether or not Flowmon has been informed of the possibility of any such damage, and even if a remedy set forth herein is found to have failed of its essential purpose.

8. TERM AND TERMINATION

- 8.1** This Agreement shall commence on the date on which the SP accepts this Agreement, i.e. by clicking the "I ACCEPT" button, by downloading, installing, copying or using the Product, and shall remain effective for the duration of the License. Should the License period be prolonged, this Agreement is automatically prolonged as well.
- 8.2** The SP is entitled to prematurely terminate this Agreement at any time, for any cause, but without the right to return of the agreed license fee or any part thereof.
- 8.3** Flowmon is entitled to prematurely terminate this Agreement, if the SP violates or fails to comply with any provision of this Agreement or the Contract, particularly if the SP fails to comply with its obligations set out in Section 3 and Section 5 or pay the agreed license fee in timely manner to the respective entity (i.e. Flowmon, or the respective Flowmon's distributor or Flowmon's reseller) under payment terms stipulated in the Contract.
- 8.4** In the event that the Product or any part of it is held to, or Flowmon believes is likely to be held to, infringe any third party rights (in particular patent, copyright, trademark or trade secret), Flowmon will have the right to prematurely terminate this Agreement subject to making reasonable commercial efforts to modify the Product or its parts, procure the necessary rights or replace the Product or its part with a functional equivalent. If the Agreement is terminated in accordance with this Section 8.4, Flowmon will refund the SP for any prepaid and unused services.
- 8.5** Flowmon is furthermore entitled to terminate or suspend the provision of the Product to the respective SP, if any Customer violates its obligations set out in the Subscription Agreement with

the SP.

- 8.6** Any termination of this Agreement terminates the granted License as well as any Sub-licenses granted by the SP to its Customers.
- 8.7** Upon termination of this Agreement, the SP shall without undue delay fulfil obligations set out in Section 2.9 of this Agreement. Unless otherwise agreed in this Agreement, all license fees are non-refundable.

9. FINAL PROVISIONS

- 9.1** This Agreement constitutes the full agreement between Flowmon and the SP with respect to the License of the Product, to the exclusion of any pre-printed licensing terms, in particular Product's documentations, or contrary and/or additional licensing terms stipulated in the Contract and supersedes and cancels any prior discussions, undertakings or representations between Flowmon and the SP regarding licensing terms of the Product.
- 9.2** This Agreement and all matters relating to it shall be governed by, and construed in accordance with the laws of the Czech Republic. Any action or proceeding arising out of or relating to this Agreement or the Product shall be brought and maintained exclusively by the Czech courts.
- 9.3** The failure of Flowmon to enforce any right or provision of this Agreement will not be deemed a waiver of such right or provision. In the event that any provision of this Agreement held to be invalid or unenforceable, then that provision will be limited or eliminated to the minimum extent necessary, and the remaining provisions of this Agreement will remain in full force and effect.
- 9.4** Flowmon reserves its right to change this Agreement unilaterally about which it must inform the SP; such information may be realized by a requirement to consent with a newer version of this Agreement. The SP may use the Product under the Agreement valid at the time of granting the License. However, once the SP acquires and installs any update, upgrade or any other newer versions of the Product, the SP accepts the Agreement valid at the moment of such update, upgrade or any newer version is installed or used which shall apply to the Product as a whole.
- 9.5** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the rest of this Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. Any restrictions imposed on the SP or rights of Flowmon under this Agreement shall be interpreted as agreed within the maximum extent allowed by the applicable law.

SCHEDULE 1

Scope of the Sub-license

The SP (hereunder referred as the “**Company**”) is obliged to conclude with any its Customer the Subscription Agreement, which shall contain at least following provisions or their modifications that do not change their purpose (the Product is hereunder referred as the “**software**”):

1. The Company grants the Customer a non-exclusive, non-transferable and limited duration sub-license to operate and use the software provided by the Company.
2. The Company or its suppliers, including creators of the software, retain all of its intellectual property rights in the software and no rights, titles or interests to the software are transferred to the Customer.
3. The Customer may not, in any way, reverse engineer, decompile, disassemble and/or decrypt the software or any part thereof. The Customer may not translate, adapt, arrange or otherwise alter the software or any part thereof.
4. The software and any additional provided services by the Company, whether alone or in combination with other software, hardware or services, are provided “as-is,” with no warranty by the Company or its suppliers, including creators of the software, regarding performance, compatibility, fitness for a particular purpose, merchantability, non-infringement, accuracy, errors, security, stability, or freedom from viruses, worms or other malware.
5. Neither the Company, nor its suppliers, including creators of the software, are liable to the Customer for any indirect, consequential, incidental or special damages (including without limitation lost profits, lost or destruction to data, breaches of rights of privacy, breaches of security, or disclosure of confidential data) arising out of the use of the software, regardless of the theory of liability whether arising in contract, tort, or otherwise, including negligence and strict liability. In any case, the Customer’s sole remedy concerning the subscription agreement or the software provided shall be a refund of amounts actually paid to the Company.
6. Upon termination of the respective sub-license, the Customer must:
 - (a) stop using the software,
 - (b) destroy and remove all copies of the software, including backups, from its computers, hard drives, networks, systems and any other storage media;
 - (c) return or remove all other information, documents obtained from the Company relating to the software; and
 - (d) confirm and certify the fulfilment of the aforementioned obligations to the Company in writing without undue delay upon request of the Company or its suppliers.
7. The Customer acknowledges that Flowmon Networks a.s., a company established and existing under the laws of the Czech Republic, having its registered office at Sochorova 3232/34, 616 00 Brno, Czech Republic, ID No.: 27730450, the creator of the software, is an intended third party beneficiary of this subscription agreement and it is entitled to all protections, limitations of liabilities, disclaimers of warranties, and other terms for the benefit of the Company and any or all of its suppliers.
8. Any other possible claims, which may not be waived by the Company and its suppliers under the applicable laws, may be claimed only against the Company as the entity solely responsible for the provision of agreed services.