Terms of Service OpSource Cloud

Last Modified: 01 September 2018

AS OF OCTOBER 11, 2012, OPSOURCE, INC. CHANGED ITS CORPORATE NAME TO **DIMENSION DATA CLOUD SOLUTIONS, INC.** ALL REFERENCES TO "OPSOURCE, INC." OR "OPSOURCE" IN THIS AGREEMENT, INCLUDING DOCUMENTS INCORPORATED BY REFERENCE, SHALL HEREBY BE SUBSTITUTED WITH "**DIMENSION DATA CLOUD SOLUTIONS, INC.**" OR "**DIMENSION DATA**," RESPECTIVELY. THE CONTRACTUAL RIGHTS AND OBLIGATIONS BETWEEN CUSTOMER AND DIMENSION DATA CLOUD SOLUTIONS, INC. (FORMERLY OPSOURCE, INC.) REMAIN UNALTERED AS A RESULT OF THE CORPORATE NAME CHANGE.

THE WORDS "CLOUD" AND "COMPUTE (OR COMPUTING) AS A SERVICE" ("**CAAS**") REFER TO CLOUD COMPUTING SERVICES AND ARE USED INTERCHANGEABLY.

TERMS OF SERVICE – OPSOURCE CLOUD

These Terms of Service – OpSource Cloud (the "**Agreement**") are entered into between OpSource, Inc., having a principal office at 5201 Great America Parkway, Suite 122, Santa Clara, CA 95054 ("**OpSource**") and the company that has submitted an on-line or written order form for services to be delivered by OpSource (the "**Service Order**") and has agreed to the terms of this Agreement, whether through (a) the on-line acceptance process or (b) execution of a written Service Order incorporating these terms (the "**Customer**" or "**Client**"). Customer desires to use OpSource's cloud services, as further described herein and the applicable Service Order ("**Services**"), and OpSource will permit Customer to do so subject to the terms and conditions of this Agreement.

IF CUSTOMER DOES NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, CUSTOMER MUST ABANDON THE SIGNUP PROCESS AND MAY NOT USE THE SERVICES.

1. SERVICES

1.1. Agreement to Provide Services. During the term of this Agreement, OpSource will provide to Customer access to the Services described in the respective Service detail pages at https://www.dimensiondata.com/en/legal/public-iaas-service-descriptions. Customer understands and agrees that by using the online process and consenting to the terms of this Agreement, Customer has made a binding selection of the type of Services to be provided and all associated specifications, prices, policies and documentation related to the delivery of the Services.

1.2. Service Orders. All Service Orders are hereby incorporated into this Agreement by this reference and are subject to the terms and conditions of this Agreement; provided, however, that in the event of conflict between this Agreement and the terms contained in the Service Order, the terms in the Service Order will take precedence and resolve the conflict or inconsistency solely with respect to the specific variable terms included in the Service Order concerning pricing, payment,

term, termination, or specific Services ordered, and this Agreement will take precedence with respect to all other matters. No terms of any Customer-issued order forms or purchase orders shall be incorporated into this Agreement or affect the obligations of the parties under this Agreement, and any such order form or purchase order of Customer which contains additional or conflicting terms are hereby rejected by OpSource.

2. MODIFICATIONS TO THIS AGREEMENT.

2.1. Modifications to the Agreement. Customer agrees that OpSource may modify this Agreement, including any documents or other terms (including without limitation the online terms referred to herein) incorporated into this Agreement (but excluding specifically any mutually executed written Service Order) at any time by posting a revised version at https://www.dimensiondata.com/en/legal or on the webpages listed herein. Unless otherwise set forth in the Agreement or in OpSource's change of terms notice, the revised terms shall be effective (a) fifteen (15) days after posting and/or notifying or (b) upon Customer's acceptance if OpSource provides a mechanism for Customer's immediate acceptance of the revised terms, such as a click-through confirmation or acceptance button. By continuing to use or receive the Services after the effective date of any revisions to this Agreement, Customer agrees to be bound by the revised terms of this Agreement. It is Customer's responsibility to check the websites listed herein regularly for changes to this Agreement. If Customer disagrees with any modifications to this Agreement, Customer's sole and exclusive remedy shall be to terminate the receipt of Services in accordance with Section 12 below.

2.2. Third-Party Software Licensing Agreements. The Services may include software components owned by third parties that OpSource uses or makes available to Customer in connection with the Services ("**Third Party Software**"). In cases where the Services include Third Party Software, the companies that own the software components require certain terms and conditions applicable to the Third Party Software, located at https://www.dimensiondata.com/en/legal/third-party-software-terms-and-third-party-terms (the "**Third Party Software Terms**"), be included in this Agreement and such terms are therefore incorporated by reference herein. If there is any conflict or inconsistency between the Third Party Software Terms and the other documents comprising this Agreement with respect to Third Party Software, then the Third Party Software Terms will prevail to the extent of the conflict or inconsistency. Customer is responsible for use of the Services, including the use of any Third-Party Software utilized in connection with the Services, by any end-users of Customer to the same extent as if Customer was using the Service itself. Customer will indemnify, defend and hold harmless OpSource, its directors, officers, employees, and affiliates (collectively, the "**Indemnified Parties**") from and against any and all claims, actions, demands, suits, liabilities or obligations brought against any of the Indemnified Parties by an owner or provider of any Third-Party Software for any breach or misuse of the software by Customer or any end-user of Customer. The indemnification obligations referenced herein shall be subject to Section 9.3 of these Terms of Service.

3. FEES AND BILLING

3.1. Service Fees. In consideration for the provision of Services, Customer will pay all applicable service fees and charges due according to any online or written Service Order, as well as any overage fees that may apply and that are billed in accordance with this Section ("**Fees**"). Unless

otherwise set forth in a written Service Order, the Fees applicable to Customer's use of the Services will be those published by OpSource at https://www.dimensiondata.com/en/legal/cloud-rate-card (the "**Published Price List**"). OpSource will provide Customer fifteen (15) days advance notice for any increase in Fees or addition of new Fees for any existing Service. Customer agrees that it is responsible for checking the Published Price List regularly to confirm whether there are any new Fees.

3.2. Billing, Invoicing and Payment Terms. OpSource will charge Customer based on the payment options selected by Customer in the Service Order or as otherwise agreed to by OpSource, and payment of such Fees will be due immediately upon receipt of invoice. Monthly subscription Fees will be billed in advance, and any overage or usage Fees will be billed in arrears. Unless otherwise specified in a Service Order, Customer will make all payments by credit card and in U.S. dollars. Late payments hereunder will accrue interest at a rate of one and one-half percent (1 ½ %) per month, or the highest rate allowed by applicable law, whichever is lower. OpSource reserves the right to have Customer complete a credit application at any time to determine Customer's creditworthiness as a condition of receiving further Services. If OpSource must initiate a collections process to recover Fees due and payable hereunder, then Customer shall pay all costs associated with such collections efforts.

3.3. Taxes. Charges are exclusive of all applicable taxes, which may be billed to the Customer in addition to the Fees. If any deduction or withholding is required by applicable law, Customer will notify OpSource in writing and shall pay such additional amounts to OpSource as necessary to ensure that the net amount OpSource receives after such deduction and withholding equals the amount OpSource would have received if no such deduction or withholding had been required.

4. SERVICE LEVEL AGREEMENT

4.1 Service Level Agreement. OpSource will provide guaranteed levels of service with rights and remedies as described in the Service Level Agreement (the "**SLA**") at https://www2.dimensiondata.com/-/media/dd/corporate/content-images/pdfs/legal/opsource-service-level-agreement.pdf?la=en, hereby incorporated by reference. Customer acknowledges that service level credits for uptime/downtime and the OpSource service performance standards as set forth in the SLA shall be Customer's sole and exclusive remedy under the SLA. OpSource has the right to amend the SLA in its sole discretion in accordance with Section 2 above.

5. CONFIDENTIAL INFORMATION.

5.1. Definition of Confidential Information. "**Confidential Information**" means all information (whether in written, oral, electronic, or other form) that is disclosed or otherwise made available by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") in connection with this Agreement or the Services. To be considered Confidential Information, the information must be (a) presented as being confidential or proprietary or (b) information that a reasonable person would assume, under the circumstances, is confidential. Confidential Information of OpSource includes any non-public Services, documentation and pricing information. Confidential Information of Customer includes all Customer Content. The Agreement is deemed to be the Confidential Information of both parties. Confidential Information does not include information that: (i) is

lawfully in the public domain when the Receiving Party received it; (ii) lawfully becomes part of the public domain afterwards; (iii) was already known to the Receiving Party before receiving it from the Disclosing Party; (iv) is given to the Receiving Party by a third person who is allowed to reveal it; or (iv) is independently created by the Receiving Party without reference to the Disclosing Party's Confidential Information.

5.2 Treatment of Confidential Information. Subject to Section 5.4, the Receiving Party agrees to protect the interests of the Disclosing Party in the Confidential Information and will: (i) not disclose the Confidential Information except to its employees, contractors or agents that need it, and only give them as much as they need; (ii) protect the Confidential Information of the Disclosing Party with at least the same degree of care it uses to protect its own Confidential Information, but in no event less than reasonable care; (iii) get promises of confidentiality from those employees, contractors or agents who need access to the Confidential Information; (iv) not reveal the Confidential Information to anyone else; and (v) not use it for any purposes other than as required by the Services and this Agreement. The Receiving Party must promptly advise the Disclosing Party in writing of any loss, wrongful disclosure or access, breach of confidentiality or misappropriation or misuse of the Disclosing Party's Confidential Information of which the Receiving Party becomes aware.

5.3. Cloud Support Community. OpSource will provide Customer with access to an online knowledge base for OpSource Services, made available through the Service Portal ("**Cloud Support Community**"). Customer may use the content posted in the Cloud Support Community during the term of this Agreement solely for the purpose of accessing and using the Services. OpSource makes no warranty with respect to the accuracy completeness or usefulness of any content found on the Cloud Support Community. Customer further agrees that OpSource is not liable for any losses or damages Customer may suffer resulting from any content posted to the Cloud Support Community.

5.4. Required Disclosure. The Receiving Party may disclose Confidential Information if required by law or judicial or other order. However, the Receiving Party must: (i) take all reasonable steps to promptly notify the Disclosing Party of the disclosure (to the extent permitted by law); (ii) allow intervention by the Disclosing Party; and (iii) cooperate with the Disclosing Party to contest or minimize the extent of the disclosure obligation.

5.5. Remedies. Each party acknowledges that damages may not be a sufficient remedy for unauthorized disclosure or use of the other party's Confidential Information and that the other party will be entitled, without waiving any other rights or remedies, to seek injunctive or other equitable relief to protect its Confidential Information.

6. OWNERSHIP.

6.1. OpSource Property. Customer does not acquire any right, title or interest in or to the Services, including but not limited to any software, APIs, Confidential Information, or other intellectual property supplied by OpSource to enable Customer to receive, access or use the Services. Except for the limited licenses granted hereunder, OpSource reserves all rights not expressly granted and no such additional rights may be implied.

6.2. Customer Content. Subject to the warranties and representations in Section 7.3, Customer may install, host, process and use software, applications (including any Customer Application, as defined below), data or other materials owned or licensed by Customer on the Services ("**Customer Content**") for use by the Customer and Customer's authorized users. As between the parties, Customer is the owner of all right, title and interest (including intellectual property rights) in and to the Customer Content. Customer grants to OpSource a limited, non-exclusive, right and license during the term of this Agreement to host, process and use the Customer Content solely in connection with providing the Services and performing its obligations under this Agreement.

6.3. Feedback. In the event Customer elects, in connection with any of the Services, to communicate to OpSource suggestions for improvements to the Services ("**Feedback**"), OpSource shall own all right, title, and interest in and to the same, even if Customer has designated the Feedback as confidential, and OpSource shall be entitled to use the Feedback without restriction. Customer hereby irrevocably assigns all right, title and interest in and to the Feedback to OpSource and agrees to provide OpSource such assistance as OpSource may require to document, perfect, and maintain OpSource's rights to the Feedback.

6.4. Non-Assertion. During and after the term of the Agreement, with respect to any of the Services that Customer elects to use, Customer will not assert, nor will Customer authorize, assist, or encourage any third party to assert, against OpSource or any of its clients, end-users, vendors, business partners (including third party sellers on websites operated by or on behalf of OpSource), licensors, sublicenses or transferees, any patent infringement or other intellectual property infringement claim with respect to such Services.

7. WARRANTIES, REPRESENTATIONS, AGREEMENTS.

7.1. Authority. Each party represents and warrants that (i) it has the full corporate right, power and authority to enter into this Agreement, (ii) the acceptance of this Agreement by and the performance of its obligations and duties hereunder do not and will not violate any agreement to which it is a party or by which it is bound, and (iii) when accepted and delivered, this Agreement will constitute the legal, valid and binding obligation of such party, in accordance with its terms.

7.2. Compliance with Law. In connection with the subject matter of this Agreement, each party agrees to comply with all applicable Federal and State laws and regulations.

7.3. Applications and Content. Customer represents and warrants: (i) that Customer is solely responsible for the development, operation, and maintenance of its Customer Content, including without limitation, the accuracy, security, appropriateness and completeness of such Customer Content and all materials and descriptions related to such Customer Content; (ii) that Customer has the necessary rights and licenses, consents, permissions, waivers and releases to use and display its Customer Content; (iii) that the Customer Content (a) does not violate, misappropriate or infringe any intellectual property rights of OpSource or any third party, (b) does not constitute defamation, invasion of privacy or publicity, or otherwise violate any rights of any third party, (c) is not designed for use in any illegal activity, nor does it promote illegal activities; and (d) does not and will not distribute, share, or facilitate the distribution of unauthorized data, malware, viruses, Trojan horses, spyware, worms, or other malicious or harmful code.

7.4. Public Software and Feedback. Customer represents and warrants that Customer will not use, and will not authorize any third party to use, any Open Source Software (as defined below) in connection with the Services in any manner that requires, pursuant to the license applicable to such Open Source Software, that any portion of the Services be (a) disclosed or distributed in source code form, (b) made available free of charge to recipients, or (c) modifiable without restriction by recipients. With respect to any Feedback, Customer represents and warrants that such Feedback, in whole or in part, contributed by or through Customer, (i) contains no third party software or any software that may be considered Open Source Software and (ii) does not violate, misappropriate or infringe any intellectual property rights of any third party. "Open Source Software" means any software, documentation or other material that contains, or is derived (in whole or in part) from, any software, documentation or other material that is distributed as free software, open source software (e.g., Linux) or similar licensing or distribution models, including, but not limited to software, documentation or other material licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: (i) GNU's General Public License (GPL), Lesser/Library GPL (LGPL), or Free Documentation License, (ii) The Artistic License (e.g., PERL), (iii) the Mozilla Public License, (iv) the Netscape Public License, (v) the Sun Community Source License (SCSL), (vi) the Sun Industry Standards License (SISL), (vii) the BSD License and (viii) the Apache License.

7.5. Third Party Software. OpSource will pass on to Customer the benefit of any warranties and indemnities it receives under the Third Party Software Terms to the extent OpSource has the right to do so. Otherwise OpSource makes no, and expressly disclaims all, representations and warranties with respect to Third Party Software and Customer's use of Third Party Software is at Customer's sole risk.

7.6. Authorization and Account Information. Customer represents and warrants that: (a) the information Customer provides in connection with Customer's registration for the Services is accurate and complete; (b) Customer is duly authorized to do business in the country or countries where it operates; (c) the individual clicking "Accept" or otherwise accepting this Agreement and completing the registration for the Services is an authorized representative of Customer; and (d) Customer's employees, officers, representatives and other agents accessing the Services are duly authorized to access the Services and to legally bind Customer to this Agreement and all transactions conducted under Customer's account.

7.7. Responsibility for Customer Content. OpSource specifically disclaims all liability, and Customer shall be solely responsible for the development, operation, and maintenance of Customer Content, including without limitation any software or applications made available to Customer's administrators, users or authorized third parties. Customer shall, without limitation, be solely responsible for:

7.7.1. the technical operation of its Customer Content and all related equipment;

7.7.2. the accuracy and appropriateness of any Customer Content (including, among other things, any product-related materials);

7.7.3. ensuring that Customer Content is not illegal and does not promote illegal activities, including without limitation any activities that might be libelous or defamatory or otherwise malicious, illegal or harmful to any person or entity, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age;

7.7.4. ensuring that all Customer Content accurately and adequately discloses, either through a privacy policy or otherwise, how Customer collects, uses, stores, and discloses data collected from visitors, including, where applicable, that third parties (including advertisers) may serve content and/or advertisements and collect information directly from visitors and may place or recognize cookies on visitors' browsers; and

7.7.5. any of Customer's users' or clients' claims relating to the Customer Content or any Services utilized in connection with Customer Content.

7.8. Disclaimer. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS SPECIFICALLY SET FORTH HEREIN, CUSTOMER'S USE OF THE SERVICES ARE AT CUSTOMER'S OWN RISK, AND OPSOURCE DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THERE IS NO WARRANTY THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR BE TIMELY, UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE. NO ADVICE, RESULTS OR INFORMATION OBTAINED BY CUSTOMER FROM OPSOURCE OR THROUGH THE SERVICES, ANY DOCUMENTATION OR THE CLOUD SUPPORT COMMUNITY, WILL CREATE ANY WARRANTY, CONDITION OR OBLIGATION ON OPSOURCE.

8. LIMITATIONS OF LIABILITY

8.1. Exclusions. Except in connection with Customer's indemnification obligations to OpSource under Sections 2.2, 9.1. and 9.2, in no event will either party be liable for any incidental, punitive, exemplary, indirect or consequential damages (including without limitation any lost revenue or lost profits) or for any loss of technology, loss or corruption of data, loss of profits, loss of good will, or interruption or loss of use of Service (except as set forth in any applicable SLA) or any other similar claims by the other party or related to the other party's business, whether in contract, tort (including negligence), strict liability or other legal theory, even if such party is advised of the possibility of such damages and even if those damages were foreseeable.

8.2. Maximum Liability. Notwithstanding anything to the contrary in this Agreement, OpSource's maximum aggregate liability related to or in connection with this Agreement whether under theory of contract, tort (including negligence), strict liability or otherwise will be limited to the total amount paid or payable to OpSource by Customer hereunder for the first six (6) month period of the Agreement.

8.3. Damage Caused by Customer. OpSource shall not be responsible for any damage to Customer Content or Customer's systems that is caused by Customer-assigned personnel, including but not limited to its employees, officers, directors, agents, affiliates, or independent contractors. Any

downtime that occurs as a result of Customer's actions or directions shall render the SLA inapplicable for such downtime. In such cases where Customer damages its systems, Customer will be responsible for paying OpSource on a time and materials basis at OpSource's then-current rate for the actual work OpSource performs in restoring the system to an operational status.

9. INDEMNIFICATION

9.1. Covered Claims. Each party (the "**Indemnifying Party**") agrees to defend the other party (the "**Indemnified Party**"), its directors, officers, employees, and affiliates (collectively, the "**Indemnified Entities**") from and against any and all claims, actions, demands, suits, liabilities or obligations brought by a third party against any of the Indemnified Entities alleging: (i) infringement or misappropriation of any intellectual property rights by the Indemnifying Party, except to the extent caused by the Indemnified Party; or (ii) any death or personal injury suffered by any representative, employee or agent of the Indemnified Party arising out of such individual's activities related to the Services except to the extent caused by the Indemnified Party (collectively, the "**Covered Claims**"). The parties further agree that the Indemnifying Party will indemnify the Indemnified Entities for all proven direct damages and expenses awarded by a court or arbitrator or agreed to in a settlement of such claim, including reasonable attorneys' fees incurred in responding to such claims.

9.2. Customer Indemnification to OpSource. In addition to the obligations under Section 9.1 above, Customer agrees to indemnify, defend and hold OpSource, its affiliates, and all respective employees, officers, directors and representatives, harmless from and against any and all claims, losses, damages, liabilities, judgments, penalties, fines, costs and expenses (including reasonable attorneys' fees), arising out of or in connection with any claim arising out of (i) Customer's use of the Services in a manner not authorized by this Agreement; (ii) any allegation that Customer Content infringes or misappropriates any property rights of any third-party or violates any party's right of privacy or publicity; (iii) Customer's use, development, design, manufacture, production, advertising, promotion or marketing of any Customer Content, or (iv) Customer's or Customer's employees' or personnel's negligence or willful misconduct.

9.3. Notice. Each party's indemnification obligations hereunder shall be subject to the Indemnified Party (i) making reasonable efforts to mitigate losses, (ii) giving prompt written notice of the existence of any Covered Claim, (iii) fully cooperating with the Indemnifying Party, at the Indemnifying Party's expense, in the defense and settlement of such Covered Claim, and (iii) allowing the Indemnifying Party to assume sole control, defense, and settlement of such Covered Claim. The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle or compromise any Covered Claim, or consent to the entry of judgment of a Covered Claim against the Indemnified Party unless the Indemnified Party is unconditionally released.

10. ACCEPTABLE USE POLICY. Customer's failure to comply with the OpSource's Acceptable Use Policy ("**AUP**"), available at https://www.dimensiondata.com/-/media/dd/corporate/content-images/pdfs/legal/3-acceptable-use-aup-2013.pdf?la=en, which may be modified by OpSource from time to time, and is incorporated herein by reference, shall be deemed a material breach hereunder, and OpSource may terminate or suspend Customer's access to the Services at its sole discretion if it reasonably believes Customer has violated the terms of the AUP.

11. AUTHORIZATION AND LICENSE TO USE THE SERVICES.
Subject to Customer's acceptance of and compliance with this Agreement, OpSource hereby grants to Customer a limited, non-exclusive, non-transferable, non-sublicenseable right and license, to access and use the Services as set forth herein.

11.1. Permitted Uses Generally.

11.1.1. OpSource hereby grants Customer a limited, non-exclusive, non-transferable, non-sublicensable right and license to write a software application or website that interfaces with the Services ("**Customer Application**"). For the purposes of this Agreement, the Customer Application shall be considered Customer Content. Customer acknowledges that OpSource may change, deprecate, or republish application programming interfaces ("**APIs**") for any Service or feature of a Service from time to time, and that it is the Customer's responsibility to ensure that any Customer Application calls made to any Service are compatible with then-current APIs for the Service. Customer further acknowledges that OpSource may change or remove features or functionality of the Services at any time.

11.1.2. Customer may make network calls or requests to the API functions of the Services any time that the Services are available, provided that Customer does not exceed the maximum file size or maximum calls per second limit (if any) set forth in the then-current API documentation for any particular Service.

11.2. Restricted Uses Generally.

11.2.1. Customer may not interfere or attempt to interfere in any manner with the functionality or proper working of the Services.

11.2.2. Customer may not compile or use the OpSource provided materials or any other information obtained through the Services for the purpose of direct marketing, spamming, unsolicited contacting of sellers or customers, or other impermissible advertising, marketing or other activities, including, without limitation, any activities that violate anti-spamming laws and regulations.

11.2.3. Customer may not remove, obscure, or alter any notice of any trademark, trade name, service mark, logo, or other intellectual property or proprietary right designation appearing on or contained within the Services or on any OpSource materials.

11.2.4. Subject to the terms and conditions of this Agreement, Customer may generally publicize Customer's use of the Services; however, Customer may not issue any press release with respect to the Services or this Agreement without OpSource's prior written consent.

11.3. Monitoring Use of the OpSource Cloud Services. Customer agrees to provide information and other materials related to its Customer Applications as reasonably requested by OpSource to verify Customer's compliance with this Agreement. Customer also agrees that OpSource may monitor the external interfaces of any Customer Application for the purpose of verifying Customer's compliance with this Agreement. Customer may not seek to block or otherwise interfere with such monitoring.

12. TERM OF AGREEMENT. This Agreement will commence on the date Customer agrees to the terms and conditions of this Agreement (either through execution of a Service Order incorporating these terms or through the online signup process) and will expire upon the expiration of all Service Order(s) hereunder, unless sooner terminated as provided herein. Each Service Order will have the initial term specified therein. Upon expiration of the term specified in the Service Order, each Service Order will automatically renew for a term equal to the initial term of the Service Order, unless the initial term is greater than one year, in which case the renewal term will be twelve (12) months. Customers on a fixed term Service Order (regardless of whether it is the initial term or a renewal term) may avoid an automatic renewal by providing written notice of termination at least ninety (90) days prior to the last day of the Customer's then-current term. Customers on a month-to-month term Service Order may avoid an automatic renewal by providing written notice of termination at least thirty (30) days prior to the last day of Customer's then-current term. For the avoidance of doubt, the effect of such notice is to terminate a Service Order no sooner than the expiration of its then-current term, and this Agreement and each Service Order, including payment terms therein, remain in full force and effect until the expiration of the then-current term. If Customer's use of the Services is not subject to a fixed or month-to-month term Service Order, Customer may terminate this Agreement at any time by providing written notice to OpSource, provided that this Agreement will continue to govern any and all usage of the Services, and, to the extent Customer leaves resources running after such notice, Customer will be responsible for all Fees accrued, until OpSource terminates Customer's cloud account. Notification of termination from Customer to OpSource must be sent to sales-order-processing@dimensiondata.com.

13. TERMINATION OF AGREEMENT

13.1. Breach. Either party may terminate this Agreement if the other party breaches any material term or condition of this Agreement and fails to cure such breach within ten (10) days after receipt of written notice of the same. Customer's failure to timely pay all Fees as they become due shall constitute a material breach of this Agreement. If Customer is terminated for nonpayment, all outstanding invoices as well as the remainder of all monthly Fees for the remaining term of the Agreement will be immediately due and payable upon the termination date as and for liquidated damages, and not as a penalty.

13.2. Nonpayment by Customer. In addition to its rights under Section 13.1 above, OpSource may suspend all Services to Customer if Customer is in default of its payment obligations set forth in Section 3. OpSource will provide seventy-two (72) hour notice of its intent to suspend Service under this provision.

13.3. Upon Bankruptcy. Either party may terminate this Agreement upon written notice to the other party if such other party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, or liquidation for the benefit of creditors.

13.4. Effect of Termination. Upon expiration or termination of this Agreement, OpSource will cease providing the Services and Customer's rights and licenses granted under this Agreement shall automatically expire. Except as otherwise set forth in Section 13.1 above, Customer shall incur no

further payment obligations under this Agreement other than any amounts outstanding as of the date of expiration or termination. Customer shall immediately return, or if instructed by OpSource, destroy all OpSource Confidential Information then in Customer's possession.

13.5. Data Preservation in the Event of Suspension or Termination. In the event of a suspension by OpSource of Customer's access to any Service pursuant to Section 13.2, during the period of suspension (i) OpSource will not take any action to intentionally erase any of Customer's data stored on the Services and (ii) applicable Service data storage charges, if any, will continue to accrue. In the event of any termination by OpSource of any Service or any set of Services, or termination of this Agreement in its entirety, OpSource shall have no obligation to continue to store Customer's data during or following any period of termination or to permit Customer to retrieve the same.

13.6. Post-Termination Assistance. Following the suspension or termination of the right to use the Services for any reason, termination for cause excepted, Customer shall be entitled to take advantage of any post-termination assistance OpSource may generally make available with respect to the Services. OpSource may also endeavor to provide Customer unique post-suspension or post-termination assistance, but OpSource shall be under no obligation to do so. Customer's right to take advantage of any such assistance, whether generally made available with respect to the Services or made available uniquely to Customer, shall be conditioned upon Customer's acceptance of and compliance with any Fees and additional terms OpSource may specify for such assistance.

13.7. Termination or Suspension for Cause. OpSource, at its sole discretion, may terminate or suspend this Agreement and modify or terminate the Services immediately upon notice to Customer (a) for cause, if any act or omission by Customer results in a suspension described in Section 10 or 13.2, (b) if OpSource's relationship with a third party partner who provides software or other technology that OpSource uses to provide the Service expires, terminates or requires OpSource to change the way OpSource provides the software or other technology as part of the Services, (c) if OpSource believes providing the Services could create an economic or technical burden or material security risk for OpSource, (d) in order to comply with the law or requests of governmental entities, or (e) if OpSource determines use of the Service by Customer or OpSource's provision of any of the Services to Customer has become impractical or unfeasible for any legal or regulatory reason. OpSource may terminate individual cloud networks if OpSource determines there are no deployed servers on such networks.

14. SURVIVAL.

The parties' respective representations, warranties, and covenants, together with obligations of payment, indemnification and limitations on liability will survive the expiration, termination or rescission of this Agreement and continue in full force and effect. The parties' respective obligations of confidentiality will survive the expiration, termination or rescission of this Agreement and continue in full force and effect for five (5) years.

15. DISPUTE RESOLUTION AND ARBITRATION

15.1. Dispute Resolution. In the event of any dispute between the parties concerning interpretations or enforcement of this Agreement, except for requests for injunctive or other equitable relief, the parties agree to first attempt informal dispute resolution by selecting a joint resolution committee consisting of two (2) representatives from each party to meet and attempt to resolve this dispute within thirty (30) days from the mailing or service of a notice of demand for such dispute resolution, unless extended by mutual agreement of the parties.

15.2. Arbitration. If the informal dispute resolution is not successful within thirty (30) days from the date notice is served, the dispute shall be settled by binding arbitration in the State of California, Santa Clara County, before a single arbitrator, and in accordance with the rules of the American Arbitration Association ("**AAA Rules**") then in effect. The parties agree that the expedited arbitration procedures under the AAA Rules shall apply. Any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction over the subject matter thereof. The parties retain their right to, and shall not be prohibited, limited or in any other way restricted from, seeking or obtaining equitable relief from a court having jurisdiction over the parties. Except as otherwise provided in this Agreement, arbitration will be the sole and exclusive remedy of the parties for any dispute arising out of this Agreement.

15.3. Attorneys' Fees. In the event that any arbitration or action for equitable relief is instituted hereunder, the prevailing party in such dispute shall be entitled to recover from the losing party all reasonable fees, costs and expenses of the prevailing party, including without limitation the reasonable fees and expenses of attorneys and accountants of the prevailing party.

16. MISCELLANEOUS PROVISIONS

16.1. Marketing. Customer agrees that OpSource may refer to Customer by name and trademark in OpSource's marketing materials and web site. Customer understands and acknowledges that OpSource does not certify nor endorse, and has no obligation to certify or endorse, any Customer Content, including any Customer Application.

16.2. Staffing. OpSource shall be responsible for staffing decisions with respect to its personnel and the provision of any services under this Agreement, and shall have the right to remove or replace any of its personnel assigned to perform services under this Agreement.

16.3. Assignment. Neither party may assign, delegate, or otherwise transfer, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any of its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other party, except that (a) OpSource may assign this Agreement without the prior consent of Customer to an affiliate or in connection with a merger, consolidation, or sale of all or a portion of OpSource's assets or business; and (b) OpSource may have any of the Services performed on its behalf by its affiliates or other third parties. Any attempted assignment, delegation or other transfer except in accordance with this Section will be void. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

16.4. Independent Contractor. Neither party shall be deemed to be an agent of the other party and the relationship of the parties shall be that of independent contractors. Neither party shall have any

right or authority to assume any obligations, or to make any representations or warranties, whether express or implied, on behalf of the other party, or to bind the other party in any matter whatsoever.

16.5. Notices. Any required notice hereunder may be delivered by electronic mail, personally or by courier, or mailed by registered or certified mail, return receipt requested, postage prepaid, to the name and address identified as the business contact on the first page of the corresponding Service Order, or at such other address as such party may provide to the other by written notice. Such notice will be deemed to have been given as of the date it is delivered by electronic mail, personally, by confirmed facsimile or by courier, or five (5) days after it is sent by mail. All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

16.6. Governing Law. This Agreement shall be governed by the laws and construed under the laws of the State of California, excluding its choice of law principles. Any dispute concerning this Agreement shall be brought exclusively in the state or federal courts located in Santa Clara County, and the parties hereby irrevocably consent to personal jurisdiction and venue in such courts.

16.7. Amendment of Agreement. Except as otherwise provided for in Section 2 above, this Agreement may be amended only by written consent of both parties.

16.8. Entire Agreement. This Agreement, together with all Service Orders, represents the sole, exclusive and integrated mutual statement of understanding of the parties concerning the Services to be provided hereunder, and supersedes and cancels all previous and contemporaneous written and oral agreements and communications between the parties relating to the subject matter of this Agreement.

16.9. Severability. If the application of any provision of this Agreement to any particular facts or circumstances is held to be invalid or unenforceable by a court or tribunal of competent jurisdiction, then (a) the validity and enforceability of that provision as applied to any other particular facts or circumstances and the validity of other provisions of this Agreement will not in any way be affected or impaired thereby, and (b) the provision will be enforced to the maximum extent possible so as to effect the intent of the parties and be deemed to have been amended without further action by the parties to the extent necessary to make the provision valid and enforceable.

16.10. Force Majeure. Except for performance of a payment obligation, neither party shall be liable under this Agreement for delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof, caused or occasioned by, or due to fire, earthquake, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, explosions, civil disturbances, governmental actions, shortages of equipment or supplies, unavailability of transportation, acts or omissions of third parties, or any other cause beyond its reasonable control. If the force majeure continues for more than sixty (60) calendar days, then either party may terminate the Agreement for convenience upon written notice to the other party.

16.11. Export. Customer shall, in connection with Customer's use of the Services, comply with all applicable export laws and regulations in its use of the Service. No part of the Services may be downloaded or otherwise exported or re-exported (i) into any country for which the United States has a trade embargo, or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals, which is currently maintained at http://www.treasury.gov/resource-Center/sanctions/SDN-List/Pages/default.aspx, or the U.S. Commerce Department's Denied Persons List, which is currently maintained at http://www.bis.doc.gov/dpl/thedeniallist.asp. Customer represents and warrants that it is not located in, under the control of, or a national or resident of any such country or on any such list.

16.12. Evaluation, Trial or Demonstration Cloud Services. From time to time, Customer may receive OpSource's Services for evaluation, trial or demonstration at no-cost or special promotion ("**Evaluation**"). Customer agrees to use the Services in a non-production environment. By accepting OpSource Services on such a basis, Customer accepts the Services as is and waives all express and implied warranties and conditions and service level guarantees during the Evaluation. Either Party, upon written notice to the other, may cancel the Evaluation with immediate effect. Upon termination or expiration of the Evaluation period, Customer's Agreement shall either convert to a paid contract covering the Services or Customer shall immediately terminate use of the Services.