OPTIMIZER ON AWS PRODUCT TERMS

In addition to any other terms and conditions of Customer's Agreement with Rackspace, these Product Terms shall apply when Customer purchases Rackspace Optimizer on AWS Services.

1. ADDITIONAL DEFINED TERMS.

"**Applicable Data Protection Law**" means all applicable laws, rules, regulations, orders, ordinances, regulatory guidance, and industry self-regulations in relation to data privacy, including but not limited to the EU General Data Protection Regulation ((EU) 2016/679).

"**Add-On Service**" means an additional product or service purchased by Customer from Rackspace to enhance, add to, or modify specific, identifiable Services or deliverables.

"**AWS**" means the contracting Amazon Web Services affiliate entity identified in Customer's AWS Customer Agreement.

"AWS Account" means Customer's payee account(s) joined via AWS Organizations to a Rackspace master AWS account designated by Rackspace.

"**AWS Customer Agreement**" means the separate customer agreement between Customer and AWS governing Customer's use of the AWS Services (meaning Customer's AWS enterprise agreement, AWS customer agreement, or similar terms governing Customer's use of AWS Services).

"**AWS Services**" means the web services made available by AWS for Rackspace to resell.

"**AWS Support**" means a specified AWS support level (in accordance with the following URL: https://aws.amazon.com/premiumsupport/plans/, as may be updated by AWS) purchased through Rackspace and provided directly by AWS to Customer through the AWS support console.

"**AWS Site**" means http://www.aws.amazon.com (and any successor or related locations designated by AWS), as may be updated by AWS from time to time.

"**CloudHealth Terms**" means the applicable CloudHealth by VMware terms of service (presently available at https://www.vmware.com/download/eula/cloudhealth-by-vmware.html), as such terms may be updated by VMware from time to time.

"**Cloud Management Platform**" means a third-party cloud management tool provided by Rackspace.

"DDI Move" refers to the process of moving a Customer's AWS Account, associated with a specific Rackspace Customer account number, to another Rackspace Customer account number.

"**Controller**", "**Processor**", "**Data Subject**", "**Personal Data**", and "**Process**" or "**Processing**" shall all have the meanings set out in Applicable Data Protection Law.

"**Guide**" means that portion of the Fanatical Support for AWS Product Guide describing the Rackspace Optimizer on AWS Services, as may be updated by Rackspace, and as presently found at the following URL: https://docs.rackspace.com/docs/fanatical-support-aws. The contents of the Guide that are applicable to these Services are incorporated into these Product Terms by reference.

"**PII**" means personally identifiable information as defined by the Applicable Data Protection Law.

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"**Public Sector Authorization(s)**" means the terms and conditions of one or more agreements, subject to these Product Terms or Customer's AWS Customer Agreement, that relate to Customer's use of these Services as a Public Sector Customer.

"**Public Sector Customer**" means a Customer that is an agency, organization, or other entity that is within (or is substantially owned, funded, managed, or controlled by): (i) the executive, legislative, or judicial branches of any government within the U.S. (federal, state, or local) and its territories; or by any other country's government at any level; (ii) Quasi-governmental entities (such as the World Bank); (iii) international governing/regulatory bodies (such as EU institutions); (iv) publicly funded institutions (such as colleges, universities, and hospitals); or (v) higher-tier prime contractors, consultants, or other entities working in support of the foregoing. Commercial entities which also qualify as Public Sector Customers (e.g., higher tier prime government contractors) do not constitute Public Sector Customers for purposes of this Agreement.

"**Rackspace Cloud Services**" means the Rackspace cloud software and services that Customer self-provisions through the Rackspace cloud control panel or which Customer utilizes via an API.

"**SPP Program Guide**" means the *AWS Solution Provider Program - Program Guide For End Customers* as it may be updated from time to time, and presently found here: https://s3-us-west-2.amazonaws.com/solution-provider-program-legal-documents/AWS+Solution+Provider+Program+-+Program+Guide+for+End+Customers.pdf.

2. SERVICES.

2.1. AWS Services Resale. As part of these Services, Rackspace will resell to Customer a subscription for AWS Services, including AWS Support, and help Customer to provision its AWS Account(s) as detailed in the Guide. Default settings shall be applied to the AWS Account(s) provisioned by Rackspace on Customer's behalf. Customer may modify its AWS Support level at any time, on notice to Rackspace, however, Customer must provide at least 90 days prior written notice to Rackspace to remove AWS Support from any AWS Account. Customer must have a fully executed AWS Customer Agreement at the time of receiving AWS Services from Rackspace. Except for Public Sector Customers, if Customer does not have a fully executed AWS Customer Agreement, then by entering the Agreement with Rackspace, Customer acknowledges that Customer's use of AWS Services is subject to the AWS Customer Agreement, which shall be effective without signature, found here (as may be updated by AWS from time to time and as may be made available on a successor or related site): https://aws.amazon.com/agreement/. If Customer is a Public Sector Customer, prior to consuming these Services, Customer must execute an AWS Customer Agreement directly with AWS and comply with any other Public Sector Authorizations required by Rackspace and/or AWS. Customer acknowledges that Customer's use of the AWS Services is subject to the AWS Customer Agreement, except for those sections of the AWS Customer Agreement governing fees, payment, pricing, and taxes, for which the Agreement shall be controlling. Customer releases Rackspace from any and all liability whatsoever arising out of or in connection with the AWS Services, AWS's provision, management, or operation of the AWS Services, and AWS's exercise of its rights in the AWS Customer Agreement or Customer's breach thereof. Notwithstanding anything to the contrary, for the purpose of calculating Rackspace's liability under the Agreement, AWS Services are excluded from the definition of "Services," and Fees for AWS Services are excluded from any limitation on damages calculation.

2.2. Optimizer Services.

(A) Rackspace will not apply any added usage or fee in excess of the published AWS Service prices for the Optimizer Services.

(B) Rackspace will facilitate purchase of an AWS Support level of Customer's choosing, to cover the AWS Accounts.

(C) Rackspace will provide advisory support, via ticket, for billing and cost optimization issues arising out of the AWS Services purchased under these Product Terms. If Rackspace determines the root cause of an issue is related to AWS Services, Rackspace will guide Customer in opening a case through

Customer's AWS Support, as applicable, and Customer will be responsible for working with AWS to resolve the issue.

(D) Rackspace will provide, at no additional charge to Customer, access to a Cloud Management Platform, or comparable system, in order to manage Customer's AWS consumption.

2.3. Add-On Services. Add-on Services are available for purchase as detailed in the Guide. Based on Customer's Add-on Services elections, these Product Terms may be modified or supplemented by the Guide, Customer's Services Order, additional Product Terms, or other product documentation.

2.4. Onboarding. Customer will receive a notice in Customer's Rackspace Portal when on-boarding has completed.

2.5. Agent for Third Party Software. As directed by Customer, Rackspace may agree to install third-party software (for example, from the AWS marketplace) as part of the Services. Where such activity requires the acceptance of any TPS Agreements (or similar terms), Customer hereby authorizes Rackspace to accept such TPS Agreements on Customer's behalf, and Customer agrees to be bound by and adhere to such terms, and acknowledges that Customer, not Rackspace, is bound by such terms. Rackspace shall notify Customer via ticket when Rackspace accepts any TPS Agreements on Customer's behalf and direct Customer to a copy. Rackspace will not engage in negotiation on Customer's behalf.

3. CUSTOMER OBLIGATIONS & RESTRICTIONS.

3.1. Multi-Factor Authentication. Customer must enable multi-factor authentication for all AWS Account root users prior to Rackspace providing support to Customer pursuant to these Product Terms**.**

3.2. Services Resale. Customer is prohibited from reselling the AWS Services. Customer is prohibited from selling, transferring, providing, or sublicensing Customer's Rackspace or AWS Account credentials to any other party (except for providing access to agents and subcontractors performing work on Customer's behalf).

3.3. Default Configurations. Rackspace's obligation to provide these Services, including any Add-on Services, is contingent on Customer retaining the default account settings applied by Rackspace, and meeting any Rackspace Configuration Requirements provided to Customer from time to time in the Guide, Service Order, product documentation, or otherwise communicated to Customer in writing.

3.4. SPP Guide Review. Customer represents and warrants that Customer has read and understands the SPP Program Guide and understands that Rackspace is Customer's "Authorized Solution Provider" as defined in the SPP Program Guide.

4. PRIVACY NOTICE AND DISCLOSURE.

4.1. Information About Customer. To resell to Customer a subscription for the AWS Services and help Customer to provision its AWS Account(s) as detailed in the Guide, Rackspace shall provide AWS the following information on a monthly basis: (i) Customer name and contact information (including customer name, telephone number, email address, city, state/region, country and zip/postal code), and (ii) Customer's AWS account ID associated with Rackspace's reseller account. Customer consents to Rackspace's collection, use, and disclosure of this information associated with the Rackspace Optimizer on AWS Services in accordance with Rackspace's Privacy Statement (available at http://www.rackspace.com/information/legal/privacycenter/, as such may be updated by Rackspace from time to time). If the AWS Services include one or more third party solutions, AWS may disclose, among other things, Customer's name, city, state/region, country and zip/postal code and information associated with Customer's use of the Services. Information obtained by AWS is subject to the applicable AWS privacy terms found in the AWS Customer Agreement.

4.2. Customer Data. Customer agrees that Customer is the Controller and primary Processor of Customer Data. Customer consents to the processing of Customer Data in, and the transfer of Customer Data into, the

AWS regions selected by Customer. Customer may specify the AWS regions in which Customer Data will be stored and accessible by Customer and its end users. Rackspace shall not move Customer Data from Customer's selected AWS regions without Customer's instructions and without notifying Customer, unless required to comply with the law or a request by one or more governmental entities. Processing of Customer Data is subject to this Agreement and the AWS Customer Agreement.

Customer warrants that Customer shall process any Customer Data that includes PII in compliance Applicable Data Protection Law. Customer shall comply with Applicable Data Protection Law of the state, province, country, or other jurisdiction in which the PII is stored, regardless of whether the software-defined datacenter region selected by Customer for storing Customer's PII is inside or outside of Customer's own state, province, country, or other jurisdiction.

5. USAGE INFORMATION. Nothing in the Agreement precludes AWS from capturing, retaining, and using network or usage information whenever a Customer accesses or uses the AWS Site or the AWS Services.

6. CHANGES TO AGREEMENT. Notwithstanding anything in the Agreement to the contrary, Rackspace may change the terms of this Agreement at any time, effective immediately, as required to comply with the reseller agreement between AWS and Rackspace or in response to changes made by AWS to the reseller agreement between AWS and Rackspace. Additionally, Rackspace may immediately terminate any applicable Service Order, the Agreement (if necessary), and/or Customer's AWS Accounts if AWS determines such termination is necessary to comply with the law or if AWS no longer permits resale of one or more of the AWS Service. If Rackspace terminates Customer's Services in accordance with this section, then both Rackspace and Customer shall reasonably cooperate to develop a transition plan, and Rackspace shall, without undue delay, provide Customer's name, contact information and the AWS Account ID to AWS, to facilitate a smooth transition of Customer's AWS Account(s), if applicable, pursuant to any established transition plan. Rackspace shall use commercially reasonable efforts to provide Customer advance notice of any termination made pursuant to this section.

7. BILLING AND FEES.

7.1. Service Level Fees. Rackspace shall charge Customer the current AWS public pricing for Customer's use of the AWS Services, Fees for any Add-on Services, and Fees for any AWS marketplace purchases. Customer is responsible for all fees and charges accrued under Customer's AWS Account(s), regardless of whether such fees and charges accrued before or after the date of transfer to or from Rackspace, and Rackspace will invoice Customer accordingly.

7.2. Billing Details. Recurring fees shall be billed monthly in arrears, and any one-time fees shall be billed immediately as incurred. If Customer has arranged for payment by credit card or direct debit or ACH, Rackspace may charge Customer's card or account on or after the invoice date. Please review the Guide for further details regarding billing cycles and accessing Customer's invoices. Rackspace may charge Customer additional fees as described in the Guide.

7.3. Billing Access. To determine Third Party Cloud usage, and to calculate applicable Fees, Customer must provide Rackspace with ongoing administrative level access to the top level billing account associated with any applicable Third Party Cloud Accounts; and when required Customer will comply with Rackspace's reasonable request to provide the requisite level of access in a timely manner.

7.4. Administration Fee. If Rackspace is unable to obtain the required usage and billing access to Customer's AWS Account as described in section 7.3, an additional monthly service Fee at 2% of infrastructure spend will be added to Customer's Fees to administer the billing manually (an "Administrative Fee"), which will continue until automated billing has been be restored. Customer agrees that the Administrative Fee is a fair and reasonable determination of additional expense for the indicated manual billing.

7.5. DDI Moves. Customer requests for DDI moves must be submitted at least 14 business days in advance of the designated DDI Move date. DD Moves are performed ONLY on a quarterly basis and ONLY during

designated periods to minimize impact on billing. (i.e., starting on or about the 15th of the month and ending on or about the 25th of the month). Subject to Rackspace discretion, DDI Moves requested outside of designated DDI Move window will be subject to additional Fees. DDI Moves are subject to additional terms and conditions as may be communicated to Customer via Services ticket.

8. WARRANTY DISCLAIMER. Notwithstanding anything to the contrary, Rackspace makes no express or implied warranty or condition on behalf of its Representatives under the Agreement (including these Product Terms), and to the extent any language may be construed as a warranty or condition, it is hereby disclaimed.

9. ADDITIONAL TERMS OF SERVICE.

9.1. Rackspace Cloud. By creating a Rackspace account for the use of these Optimizer Services, Customer has the ability to begin using the Rackspace Cloud Services through the Rackspace cloud control panel. By making use of any Rackspace Cloud Services, Customer automatically agrees to the Rackspace Cloud Terms of Service, a copy of which can be found here: http://www.rackspace.com/information/legal/cloud/tos. Rackspace Cloud Services shall be invoiced separately from Fees incurred under these Optimizer Product Terms. For avoidance of doubt, Customer's use of the Optimizer Services is not subject to the Rackspace Cloud Terms of Service.

9.2. Cloud Health. Customer's use of CloudHealth by VMware ("**CloudHealth**") is additionally subject to Customer's compliance with the CloudHealth Terms. Customer releases Rackspace from any and all liability whatsoever arising out of or in connection with Customer's use of CloudHealth, VMware's provision, management or operation of CloudHealth, and VMware's exercise of its rights in the CloudHealth Terms, or Customer's breach thereof.

10. TERM. The Initial Term of the Services will be as defined in, and commence upon Customer's signature of, the applicable Service Order. Upon expiration of the Initial Term, the Services will renew for consecutive, rolling 30-day terms unless: (i) otherwise stated in the Agreement, (ii) the parties enter into an agreement for a Renewal Term, or (iii) either party provides the other with written notice of termination at least 30 days prior to the expiration of the then current term.

11. TERMINATION. Upon termination, Rackspace will no longer be the reseller of Customer's AWS Services, and Customer must elect to either: (i) transfer ownership of its AWS Accounts to Customer, or (ii) close Customer's AWS Accounts. Such election must be made at the time Customer provides notice of termination. If Customer does not make such election at the time Customer provides notice of termination then Rackspace may close Customer's account on the effective date of termination, without liability (e.g. for any lost Customer Data or account credentials). Rackspace will provide reasonable assistance, subject to Rackspace's then current rates, in transferring Customer's AWS Account credentials and/or Customer Data stored in the AWS Services. Rackspace will make reasonable efforts to perform such additional services within 30 days of Customer's notice of termination. If Customer and Rackspace do not agree on a transition plan within a reasonable time period of time following Customer's notice of termination, then Rackspace may immediately close Customer's account without liability (e.g., for any lost Customer Data or account credentials).