

## **AWS COMPUTE & DATABASE COMMITMENT MANAGEMENT** **MASTER SERVICE AGREEMENT**

This Master Service Agreement (the “Agreement”) sets forth the terms under which NOPS, Inc., a Delaware corporation (the “Company”, “nOps”) shall provide Commitment Management Subscription Services (the “Services”) to the subscriber of the Amazon Web Services (“AWS”) Marketplace Offer (the “AWS MPPO”) (the “Subscriber”). This Agreement is effective as of the date the AWS MPPO is accepted by the Subscriber (“Effective Date”).

WHEREAS, Company has created a cloud spend management and optimization platform (“Platform”), which includes the capability and capacity to provide certain Services; and

WHEREAS, Subscriber desires to retain the Company to provide the Services under the terms and conditions hereinafter set forth, and the Company is willing to perform such Services.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Subscriber agree as follows:

1. **Definitions.** In addition to the terms defined elsewhere herein, capitalized terms used herein without definition are used as defined on Exhibit A.
2. **Services.** Company shall use its automated solution to manage Subscribers Amazon Web Services (“AWS”) Compute and Database Commitments (collectively, the “Commitment(s)”) for the purpose of reducing the Subscribers’ overall AWS cloud spend. Services will only apply to the portion of Subscribers’ total Compute and Database spend that is allocated to the Company to manage (“Allocated Spend”) and will include, but is not limited to, the purchase and management of any combination of the following Commitment offerings; Compute Savings Plans, Compute Convertible Reserved Instances, Compute Standard Reserved Instances, Database Savings Plans and Database Reserved Instances.

Subscriber agrees that the Company shall have sole discretion in determining the quantity and length of the Commitments to procure on Subscriber’s behalf and has the sole authority on behalf of Subscriber to purchase such Commitments through AWS. Company will use reasonable efforts to reduce the total AWS charges to Subscriber for Commitments. For purposes hereof, Subscriber’s AWS charges may include, without limitation, actual usage charges and Commitment charges. Notwithstanding the foregoing, no provision of this Agreement shall prevent Subscriber from engaging in independent efforts to reduce its AWS or similar charges through spend or commitment management following the termination or expiration of this Agreement.

### 3. **Subscriber Obligations.**

- 3.1. **AWS Compliance.** Subscriber shall at all times maintain full compliance with all requirements of its agreements with AWS.
- 3.2. **Authorized User.** Subscriber shall ensure that each Authorized User has their own credentials, protecting those credentials, and not permitting any sharing of credentials. Subscriber shall be responsible for any breach of this Agreement by an Authorized User as if they were party hereto.
- 3.3. **Security.** Subscriber shall be responsible for securing the Subscriber’s Cloud Environment, and any Subscriber Systems.
- 3.4. **Cooperation and Credentials.** Subscriber agrees to cooperate reasonably with the Company with respect to its performance of the Services hereunder, including by providing; (i) a new AWS account(s) within the Subscriber’s organization in which the Company will purchase and manage all Services, (ii) all credentials necessary for the Company to conduct the Services, and (iii) read-

only access to Subscriber's AWS Simple Storage Service ("S3") billing bucket (or other billing and usage information maintained by AWS). For clarity, the Company shall not be deemed in breach of this Agreement for a failure to provide the Services in the event that such failure would not have occurred but for Subscriber's failure to comply with the requirements of this Section 3.4.

- 3.5. Compliance with Laws. Subscriber and its Authorized Users shall comply with this Agreement, all applicable federal, or state, and local laws, rules, and regulations in conjunction with its performance pursuant to this Agreement.
- 3.6. Compute purchases by Subscriber. Subscriber acknowledges and agrees that it shall not purchase any new Commitments on Allocated Spend without the prior written consent of the Company during the term of this Agreement. Notwithstanding, the Subscriber may renew any commitments that were purchased prior to the Effective Date of the Agreement.
- 3.7. Notification. Subscriber agrees to notify the Company thirty (30) days prior to the execution of an Enterprise Discount Program or a cross-service Private Pricing Agreement ("PPA" or "EDP") with AWS during the term of this Agreement.

#### 4. **Fees**

- 4.1. Fees: The Company will charge Subscriber a monthly fee based on the Realized Savings on the Commitments (the "Fee"). The Company will invoice any applicable monthly Fee as a separate line item in Subscriber's subsequent monthly AWS invoice via the AWS Marketplace or via an invoice outside of the AWS Marketplace as agreed upon with the Subscriber.

The Company shall provide documentation reasonably requested by Subscriber evidencing all Fees. The Fee will be payable within thirty (30) days of receipt by Subscriber of an undisputed invoice. In the event Subscriber defaults on the payment of an invoice, the Company may temporarily block Subscriber's access to the Services until payment of such invoice. Furthermore, defaults on invoice payments that are greater than 60 days past due will be considered a breach of this Agreement and may lead to the Company's termination of this Agreement.

Subscriber is responsible for the payment and remittance of applicable sales taxes, if any, to regulatory authorities, excluding taxes that are assessed based on the Company's income.

#### 5. **Proprietary Rights and Use Restrictions**

- 5.1. Proprietary Rights. No provision of this Agreement conveys any ownership interest to Subscriber in or to any of the processes or methodologies used to perform the Services or in or to any Service Materials, in whole or in part, and, except for the express rights to use the same granted herein, all intellectual property rights, including copyright, patent, trademark and trade secret, are retained by the Company, its affiliates and/or licensors.
  - 5.2. Restrictions on Use. Subscriber shall not (and shall not allow any third party to) directly or indirectly (a) use, the Services except for Subscribers own benefit in accordance with the terms of this Agreement; (b) download, print or otherwise obtain access to the Service Materials in whole or in part except for Subscribers own benefit in accordance with the terms of this Agreement; or (c) use the Services or Service Material to build an application or product that is competitive with any of the Company's products or services.
6. **Term**. This Agreement shall commence on the Effective Date and shall remain in effect for an initial term of one year ("Initial Term"). Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one-year periods (each, a "Renewal Term") unless either party provides written notice of its intent not to renew at least 30 days prior to the end of the then-current term or unless this Agreement is earlier terminated in accordance with Section 7.

## 7. **Termination.**

- 7.1. **Termination for Cause.** Either party (the “Non-Breaching Party”) shall have the right to terminate this Agreement, effective upon written notice to the other party (the “Breaching Party”), if the Breaching Party:
- (a) materially breaches any term of this Agreement and such breach or default is incapable of cure; or with respect to a material breach capable of cure, the Breaching Party does not cure such breach to the Non-Breaching Party’s reasonable satisfaction within ten (10) business days of such notice;
  - (b) becomes bankrupt or insolvent, goes into liquidation, files a petition seeking reorganization or similar relief, has a receiving or administration order made against it, makes an assignment for the benefit of its creditors, or has any involuntary petition or proceeding under bankruptcy or insolvency laws instated against such party that is not stayed, enjoined, or discharged within ninety (90) days; or
  - (c) is dissolved or liquidated or takes any corporate action for such purpose.

Notwithstanding any other provision of this Agreement, either party may terminate this Agreement immediately upon written notice if the other party commits an act of gross negligence or willful misconduct in connection with the performance of its obligations under this Agreement.

- 7.2. **Effect of Termination.** Upon termination, all rights granted to Subscriber hereunder shall terminate. If termination occurs prior to the end of the Agreement Term, Subscriber agrees to maintain ownership of the AWS Account(s) created within Subscriber’s organization to render Services and is solely liable for all Commitments purchased to render Services.
- 7.3. **Survival.** The obligations and rights of the parties pursuant to Sections 4, 5, 6, 7, 9, 10, 11, 12 and 13 hereof and any other provisions that by their nature should survive the termination or expiration of this Agreement shall survive such termination or expiration.

## 8. **Warranties.**

- 8.1. **Representations, Warranties and Covenants.** The Company represents, warrants and covenants that (a) it will provide the Services in a professional and workmanlike manner, in accordance with industry standards, and in compliance with all applicable laws; (b) it has the requisite power and authority to provide the Services in accordance with this Agreement; (c) the Services, in the form provided by the Company to Subscriber, will not infringe any patent, copyright, trademark, trade secret or other proprietary right of any third party; (d) the Services as provided will conform in all material respects with the documentation and Service Materials provided to Subscriber; (e) it takes commercially reasonable measures, including technical, physical, and administrative measures and training, designed to protect your data from loss, misuse, and unauthorized disclosure, access, alteration, and destruction; and (f) it will maintain, at its own expense, adequate insurance with financially sound and reputable insurers as is necessary to cover its obligations under this Agreement and for Subscriber’s protection in connection with the Services. Subscriber represents, warrants and covenants that it shall comply with Section 3 and Section 5.2.
- 8.2. **Warranty Disclaimer.** THE SERVICES HEREUNDER INCLUDING, WITHOUT LIMITATION, ANY SERVICE MATERIALS, ARE FURNISHED BY THE COMPANY, ITS AFFILIATES AND LICENSORS AND ACCEPTED BY SUBSCRIBER “AS IS” AND “AS AVAILABLE” AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, EXCEPT FOR THOSE REPRESENTATIONS OR WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT. THE COMPANY, ITS AFFILIATES AND LICENSORS HEREBY DISCLAIM ALL REPRESENTATIONS AND

WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SERVICES, THE SERVICE MATERIALS, OR THE RESULTS DERIVED THEREFROM, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES REGARDING ACCURACY, QUALITY, CORRECTNESS, COMPLETENESS, COMPREHENSIVENESS, CURRENCY, SUITABILITY, SYSTEM AVAILABILITY, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR OTHERWISE (IRRESPECTIVE OF ANY COURSE OF DEALING, CUSTOM OR USAGE OF TRADE). NO COMPANY EMPLOYEE OR AGENT IS AUTHORIZED TO MAKE ANY STATEMENT THAT ADDS TO OR AMENDS THE WARRANTIES OR LIMITATIONS CONTAINED IN THIS AGREEMENT.

9. **Limitation of Liability.** EXCEPT FOR DAMAGES CAUSED BY A PARTY’S WILLFUL MISCONDUCT, FRAUD, BREACH OF CONFIDENTIALITY OBLIGATIONS OR LIABILITY ARISING FROM A PARTY’S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, OR LICENSORS, OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS, BE LIABLE TO THE OTHER PARTY, OR ANY THIRD PARTY WHOSE CLAIM IS RELATED TO OR ARISES OUT OF A BREACH OF THIS AGREEMENT, UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY, FOR (A) LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES OR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) OR ANY DIRECT CLAIMS, DAMAGES OR COSTS OF ANY NATURE IN EXCESS OF THE FEES UNDER THIS AGREEMENT PAID BY SUBSCRIBER TO COMPANY DURING THE TWELVE (12) MONTHS DIRECTLY PRECEDING THE EARLIEST EVENT GIVING RISE TO SUCH LIABILITY UNDER THIS AGREEMENT. THIS LIMITATION OF LIABILITY AND THE DISCLAIMERS SET FORTH IN THIS AGREEMENT ARE INDEPENDENT OF ANY REMEDIES SET FORTH HEREIN. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY AND THE DISCLAIMERS SET FORTH IN THIS AGREEMENT ARE AN ESSENTIAL ELEMENT TO MAKING THE SERVICES AVAILABLE UNDER THE TERMS OF THIS AGREEMENT, AND THEREFORE THIS LIMITATION OF LIABILITY AND THE DISCLAIMERS SET FORTH IN THIS AGREEMENT WILL SURVIVE AND APPLY EVEN IF SUCH REMEDIES ARE FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

10. **Indemnification.**

- 10.1. **Company Indemnification.** The Company shall, at its expense, defend, indemnify, and hold harmless Subscriber and its officers, directors, employees, contractors and agents (“Subscriber Indemnified Parties”), from and against any claims, damages, liabilities, and expenses (including reasonable attorneys’ fees and court costs), arising out of, connected with, or resulting in any way from final judgment of liability in a lawsuit or other judicial action (or settlement to which the Company consents) for any claim made by an unaffiliated third party against the Subscriber Indemnified Parties, that the Service Materials infringe its copyright, trademark, patent or other intellectual property rights. The Company will have no liability for any claim pursuant to this Section 10.1 to the extent such infringement claim was based on (a) any unauthorized use, modification, disposition, or promotion of the Services or Service Material by Subscriber which is not in accordance herewith; (b) unauthorized combining of the Services or Service Materials with a non-Company product, service, technology, data or business process to the extent such infringement would not have occurred but for such combination; (c) Services or Service Material made, in whole or in part, in accordance with Subscriber’s specifications; (d) where Subscriber

continues allegedly infringing activity after being notified thereof or after being informed of modifications which would have avoided the alleged infringement; or (e) any third party's (not authorized by the Company) role in supplying the Services or Service Materials. In addition to the obligations set forth above, if the Company receives information concerning a claim subject to indemnification pursuant to this Section 10.1, the Company may, at its expense and in its sole discretion, but without obligation to do so, undertake further actions such as: (a) procuring for Subscriber such right(s) or license(s) as may be necessary to address the claim; or (b) replacing or modifying the Service Materials to make them non-infringing. If none of the foregoing is commercially practicable, the Company may terminate this Agreement upon written notice to Subscriber. THIS SECTION 10.1 SETS FORTH THE COMPANY'S ENTIRE LIABILITY, AND SUBSCRIBER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY INFRINGEMENT CLAIMS RELATING TO THE SERVICES INCLUDING, WITHOUT LIMITATION, THE SERVICE MATERIALS.

- 10.2. Subscriber Indemnification. Except with respect to third-party claims for which Subscriber is entitled to indemnification pursuant to Section 10.1 above, Subscriber shall defend, indemnify, and hold harmless the Company and its affiliates and their respective officers, directors, employees, contractors and agents ("Company Indemnified Parties"), from and against all claims, damages, liabilities, and expenses (including reasonable attorneys' fees and court costs) arising out of, connected with, or resulting in any way from any claim made by an unaffiliated third party against the Company Indemnified Parties based on Subscriber's use of the Services, Service Materials or any Instance, or of any other product or service of AWS, in each case, resulting from Subscriber's gross negligence, willful misconduct, or fraud or any breach of Section 3 or Section 5.2.
- 10.3. Indemnification Procedures. In the event of a claim subject to indemnification hereunder (a "Claim"), the party entitled to indemnification (the "Indemnified Party") shall provide written notice to the party obligated to provide indemnification hereunder (the "Indemnifying Party") in a timely manner after the Indemnified Party receives actual notice of the existence of a Claim; provided, however, that a failure to provide such notice shall only relieve an Indemnifying Party of its indemnity obligations if the Indemnifying Party is materially prejudiced by such failure. The Indemnifying Party shall have the right, at its expense, to employ counsel to assume sole control of and defend the Claim, and to compromise, settle, or otherwise dispose of the Claim (provided that the Indemnified Party may participate in such defense and settlement at its own expense); provided, however, that no compromise or settlement of any Claim admitting liability of or imposing duties or restrictions upon the Indemnified Party may be affected without the prior written consent of the Indemnified Party provided that such consent shall not be reasonably withheld, conditioned or delayed. The Indemnified Party will cooperate in such action by making available to the Indemnifying Party, at the Indemnifying Party's expense, records reasonably necessary for the defense of the Claim which shall be deemed the Indemnified Party's Confidential Information.

## 11. Independent Contractor

- 11.1. The parties understand and acknowledge that the Services which the Company will provide to Subscriber shall be in the capacity of an independent contractor and not as an employee or agent of Subscriber. The Company shall control the conditions, time, details, and means by which the Company performs the Services.
- 11.2. Except as expressly stated in Section 2, the Company has no authority to commit, act for or on behalf of Subscriber, or to bind Subscriber to any obligation or liability.
- 11.3. The Company shall not be eligible for and shall not receive any employee benefits from Subscriber and shall be solely responsible for the payment of all taxes incurred based on the Company's income, state unemployment insurance contributions, state disability premiums, and

all similar income based taxes and fees incurred.

## 12. **Confidentiality.**

- 12.1. **Use of Confidential Information.** A party may disclose Confidential Information only to its Representatives who need to know the Confidential Information to achieve its rights and obligations under this Agreement and who are legally bound in writing to the Receiving Party to maintain and use the Confidential Information in accordance with the terms of this Agreement. The Receiving Party is responsible for any breach of this Agreement caused by any of its Representatives. The Receiving Party agrees that it will (a) keep in confidence all Confidential Information it receives and that it will not directly or indirectly disclose any Confidential Information to any third party other than its Representatives without the prior written consent of the Disclosing Party or (b) use any Confidential Information for its own benefit or access or use it for any purpose other than the Purpose. The Receiving Party will not decompile, disassemble, decode, reproduce, redesign, or reverse engineer any samples or computer software containing Confidential Information, or any part thereof provided to the Receiving Party. Each party agrees to protect and safeguard the confidentiality of all received Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a reasonable degree of care.
- 12.2. **Compelled Disclosure.** If a Receiving Party is required by law, including without limitation any subpoena or court order issued by a court of competent jurisdiction, to disclose any of the Confidential Information, the Receiving Party will, to the extent it may legally do so, give prompt and prior written notice of the required disclosure to the Disclosing Party so that the Disclosing Party may seek a protective order or other appropriate remedy, and the Receiving Party will cooperate with the Disclosing Party with respect to the Disclosing Party's efforts, at the expense of the Disclosing Party, to resist or narrow the scope of such required disclosure. If, in the absence of a protective order or other remedy or the receipt of a waiver by the Disclosing Party, the Receiving Party is nonetheless legally compelled to disclose Confidential Information, the Receiving Party may disclose only that portion of the Confidential Information which, in the written opinion of its legal counsel, the Receiving Party is legally required to disclose, and use reasonable efforts to ensure that such Confidential Information is afforded confidential treatment.
- 12.3. **Injunctive Relief.** Each party acknowledges that any breach of any provision of this Article may cause immediate and irreparable injury to the other party, and in the event of such breach, the injured party shall be entitled to seek injunctive relief in addition to any and all other remedies available at law or in equity without the necessity of proving actual damages or the posting of a bond.
- 12.4. **Ownership.** All Confidential Information, including all copies, extracts, and portions thereof, shall be and remain the sole property of the Disclosing Party. No Receiving Party acquires a license under any patents, copyrights or mask right by the Disclosing Party's transmission of Confidential Information or other information under this Agreement, nor shall such a transmission constitute any representation, warranty, assurance, guaranty or inducement by the Disclosing Party to the Receiving Party with respect to infringement of patent or other rights. Each party acknowledges that the Disclosing Party has not made and will not make any representation or warranty as to the accuracy or completeness of its Confidential Information or of any other information provided in connection with this Agreement.
- 12.5. **Return or Disposal of Confidential Information.** Upon written request or after the expiration or termination of this Agreement, all Confidential Information furnished by the Disclosing Party shall be returned to it or destroyed promptly, together with all materials (in written, electronic or other form) containing or constituting Confidential Information, including any copies and extracts thereof. Notwithstanding anything herein to the contrary, the Receiving Party may retain information as required by their internal document management policies or applicable

regulations. Such retained information shall be protected and safeguarded by the Receiving Party as Confidential Information and shall be promptly destroyed or returned to the Disclosing Party upon expiration of the retention period stated in their internal management policies or applicable regulations.

- 12.6. Survival. The Receiving Party's duty to hold in confidence Confidential Information that was disclosed during the Term shall remain in effect for three (3) years following the termination or expiration of this Agreement except for Confidential Information that is "trade secrets," in which case the obligation will survive until such information becomes publicly available other than by reason of a breach of this Agreement.

### 13. **General Provisions**.

- 13.1. Amendments. Except as otherwise expressly provided herein, this Agreement may not be modified, amended, or in any way altered except by a written agreement signed by the parties hereto that states it is an amendment to this Agreement.
- 13.2. Assignment. Neither party shall assign this Agreement, nor delegate any of its duties, in whole or in part, without the prior written consent of the other party. In no event shall the non-assigning party's consent be construed as discharging or releasing the assigning party in any way from the performance of its obligations under this Agreement. Notwithstanding the foregoing, either party may freely assign this Agreement to any affiliate or successor or in connection with any sale transaction or change of control transaction involving any of the Services and may delegate its duties, in whole or in part, in each case without any consent of the other party. An assignee of either party authorized hereunder shall be bound by the terms of this Agreement and shall have all of the rights and obligations of the assigning party set forth in this Agreement. If any assignee refuses to be bound by all of the terms and obligations of this Agreement or if any assignment is made in breach of the terms of this Agreement, then such assignment shall be null and void and of no force or effect.
- 13.3. Public Disclosures. Neither party will make any press release, public statement or other disclosure regarding the terms of this Agreement without the prior written consent of the other party.
- 13.4. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Facsimile or Portable Document Format (PDF) signatures shall be deemed originals for purposes of the execution of this Agreement.
- 13.5. Entire Agreement. This Agreement, together with the Company's Terms of Service, AWS Marketplace Private Offer, all Exhibits and any other document expressly referenced herein, constitutes the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and supersedes all prior proposals, understandings, and agreements, whether oral or written, between the parties with respect to the subject matter hereof, including the NDA. The parties acknowledge that the terms of this Agreement apply to the Company's Commitment Management Services and do not govern the use of other offerings, products, or subscriptions provided by the Company. For the avoidance of doubt, in the event of any conflict between the Company's Terms of Service or the AWS Marketplace Private Offer and this Agreement, the provisions of this Agreement shall govern.

During the term of this Agreement, Subscriber may continue to use the Company's other offerings, products or subscriptions, in accordance with the Company's Terms of Service. Subscriber acknowledges that there were no representations or promises made by the Company on which Subscriber has relied in entering into this Agreement that are not expressly stated herein. In the event Subscriber submits work orders, change orders, invoices, or other similar documents for accounting or administrative purposes or otherwise, no pre-printed or similar

terms and conditions contained in any such form shall be deemed to supersede any of the terms and conditions herein.

- 13.6. Force Majeure. Neither party shall be liable for any failure or delay in performing its obligations under this Agreement, or for any loss or damage resulting therefrom, due to acts of God, war, invasion, terrorist activities, riots, fires, pandemics, and other causes beyond such party's control (each, a "Force Majeure Event"); provided that the non-affected party is notified of such Force Majeure Event and its expected duration. Should any Force Majeure Event delay performance for a period of more than thirty (30) days, either party, upon notice to the other party, may terminate and rescind the Agreement.
- 13.7. Governing Law. This Agreement shall be governed by the internal law of the State of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware.
- 13.8. Notice. Any notice or other document or communication required or permitted hereunder to the parties hereto shall be deemed to have been duly given only if in writing and delivered by any of the following methods: (a) certified U.S. mail, return receipt requested, postage prepaid, to nOps, Inc. at 1034 Emerald Bay Rd #430, South Lake Tahoe, CA 96150 or to Subscriber at the address set forth below in this Agreement, or such other address as the parties may dictate according to the notice provisions hereof; or (b) overnight delivery service at such addresses. Notices shall be deemed delivered pursuant to clause (a) three (3) days after deposit in the U.S. mail and upon receipt pursuant to clause (b). In addition, Subscriber should email a copy of all notices required or permitted hereunder to the Company at [billing@nops.io](mailto:billing@nops.io).
- 13.9. Severability. If any provision of this Agreement or its application to particular circumstances is determined by a court of competent jurisdiction to be invalid or unenforceable, that provision (or its application to those circumstances) shall be deemed stricken and the remainder of this Agreement (and the application of that provision to other circumstances) shall continue in full force and effect insofar as it remains a workable instrument to accomplish the intent and purposes of the parties; the parties shall replace the severed provision with the provision that will come closest to reflecting the intention of the parties underlying the severed provision but that will be valid, legal, and enforceable.
- 13.10. Third Party Rights Excluded. This Agreement is an agreement between the parties and confers no rights upon any of the respective employees, agents, or contractors or any other person.
- 13.11. Waivers. No purported waiver by any party of any default by any other party of any term or provision contained herein (whether by omission, delay, or otherwise) shall be deemed to be a waiver of such term or provision unless the waiver is in writing and signed by the waiving party. No such waiver shall in any event be deemed a waiver of any subsequent default under the same or any other term or provision contained herein.

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**UPON EXECUTION OF THE MPPO**, the parties have caused this Agreement to be executed by their respective duly authorized representatives to be effective as provided herein. The parties expressly consent and agree that this Agreement may be electronically signed.

## **Exhibit A – Definitions**

“Allocated Spend” means Subscribers’ total on-demand AWS Compute and RDS spend that is managed by the Company.

“Authorized User” means any individual appropriately cleared by the Subscriber to access the Company’s Platform.

“AWS Compute” means the suite of services provided by AWS that offer on-demand computing power, allowing users to run applications and process data in the cloud. The suite of AWS services includes, but is not limited to; Amazon Elastic Compute Cloud, AWS Lambda, Amazon Elastic Container Service, Amazon Elastic Kubernetes Service and Amazon Fargate.

“AWS Compute Savings Plans” are a flexible pricing model that provide savings on AWS usage by offering lower prices on AWS Compute usage, regardless of instance family, size, OS, tenancy, or AWS Region. Compute Savings Plans provide savings beyond AWS On-Demand rates in exchange for a commitment of using a specified amount of compute power (measured per hour) for a one- or three-year period.

“AWS Compute Convertible Reserved Instances” “CRIs” are the most flexible pricing model offered by AWS as they provide savings on AWS usage by offering lower prices on AWS Compute usage combined with the ability to exchange CRIs for another CRI with a different configuration, including instance family, operating system and tenancy, to drive savings in exchange for a one- or three- year commitment period. There are no limits to how many times one may perform an exchange, as long as the target CRI is of an equal or higher value than the CRI that is exchanged.

“AWS Compute Standard Reserved Instances” are more restrictive pricing model (compared to other AWS offerings) that provide savings on AWS usage by offering a discounted hourly rate and optional capacity reservation on AWS Compute Usage that meet specific spend attributes, such as instance family, size, or AWS Region, that cannot be changed, in exchange for a one- or three- year commitment period. RIs are not physical instances, but rather a billing discount applied to the use of On-Demand Instances in Subscribers account.

“AWS Database” means a suite of managed cloud-based solutions for various data needs, including but not limited to; relational (Amazon RDS, Aurora), NoSQL (DynamoDB, Keyspaces), in-memory (ElastiCache), graph (Neptune), time-series (Timestream), MongoDB compatible (Document DB) and migration (DMS) offering scalability, high availability, and automating routine database administration tasks like backups, patching, and hardware provisioning, letting developers focus on applications.

“AWS Database Reserved Instances” are a pricing model for Amazon Database Services that provide savings on AWS Database Services in exchange for a one- or three- year commitment period and are ideal for steady, long-term workloads.

“AWS Database Savings Plans” are a flexible pricing model that provide savings on AWS Database Services in exchange for committing to a consistent hourly spend (\$/hour) over a one year term, automatically covering eligible serverless and provisioned instances across various engines, sizes, and regions, including RDS, Aurora, and DynamoDB, without committing users to specific hardware.

“Beginning Spend” means the Subscribers total Allocated Spend on the Effective Date of this Agreement

or on the Effective Date of any subsequent renewal.

“Confidential Information” means any non-public, confidential, or proprietary information in any form, whether or not such information is marked, identified or otherwise designated as confidential, that is disclosed to the Receiving Party by or on behalf of the Disclosing Party including, without limitation, in the case of the Company as the Disclosing Party, the Service Materials, and any non-public, confidential, or proprietary information the parties may have exchanged in connection with the Purpose set forth in a Mutual Nondisclosure Agreement executed by the parties. Confidential Information shall not include information which (i) was known by the Receiving Party, free of any obligation to keep it confidential, as evidenced by written records, before being disclosed by or on behalf of the Disclosing Party under this Agreement; (ii) is or becomes publicly available through other than as a result of, directly or indirectly, any violation of this Agreement by the Receiving Party or any of its Representatives; (iii) is independently developed by the Receiving Party without the use of any Confidential Information; or (iv) the Receiving Party rightfully obtains it from a third party who has the right to transfer or disclose it. If any portion of any Confidential Information falls within any of the above exceptions, the remainder of the Confidential Information shall continue to be subject to the requirements of this Agreement.

“Disclosing Party” means any Party or its Representatives disclosing Confidential Information under this Agreement.

“Instance” refers to a virtual server in the cloud. It's essentially a virtual machine that users can launch and manage within AWS's infrastructure. These instances are created from Amazon Machine Images and offer a customizable environment for running your applications and workloads.

“Realized Savings” represents the total savings generated on Commitments managed over on-demand costs net of the cost of Commitment underutilization, if any.

“Receiving Party” means any Party or its Representatives receiving Confidential Information under this Agreement.

“Representatives” means as to a Party, its affiliates and the Party's and its affiliates' respective officers, directors, employees, independent contractors, consultants, agents, or advisors.

“Services” means the Commitment Management Subscription Services provided to Subscriber by the Company hereunder, as set forth in the Agreement and as described in Section 2.

“Service Materials” means any data, dashboards or materials produced by the Company automated solutions Platform in the course of providing any information or support to the Subscriber.