OVHcloud

SPECIFIC CONDITIONS - HOSTED PRIVATE CLOUD POWERED BY NUTANIX®

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DEFINITIONS

Terms starting with a capital letter are defined in the terms and conditions below, or otherwise in the OVHcloud General Terms of Service.

"**Third Party Virtualization Interface**" means the interface accessible by the Client through its Management Interface and designed by the editor of the Third Party Product which allows the Client to administer the Third Party Product.

"**Third Party Product**" means the product(s) developed and owned by a third party and made available to the Client by OVHcloud in connection with the Service.

"**Dedicated Servers**" means the servers provided to the Client by OVHcloud as part of the Service.

"**Service**" has the meaning given to it in article 1 herein.

ARTICLE 1: PURPOSE

The purpose of these Specific Conditions is to define the terms and conditions applicable to the service Hosted Private Cloud powered by Nutanix® provided to the Client by OVHcloud (hereafter, the "Service").

ARTICLE 2: DESCRIPTION OF THE SERVICE

As part of the Service, OVHcloud provides the Client with a cluster that is made up of several preconfigured Dedicated Servers and equipped with licenses developed by Nutanix® as well as a Load Balancer, and if applicable, additional options.

At the time of the Order, the Client selects the type of cluster of its choice, which determines the functionalities available as part of the Service, in particular the number of Dedicated Server(s) and the category of the license of the Third Party Product. The description of the cluster and the detail of the specifications are available on the website of OVHcloud. The licenses developed by Nutanix® and included in the scope of the Service are limited to the ones listed on the website of OVHcloud.

ARTICLE 3: CONDITIONS OF USE OF THE SERVICE

3.1 Prerequisite

The subscription of the "Business Support" or "Enterprise Support" of OVHcloud is mandatory.

3.2 Applicable Contractual Terms

The Service is subject to the following conditions presented in descending order of importance:
- These Specific Conditions,
- The Third Party Product Terms of Use referred to in article 3.5 hereof,

- The Specific Conditions "Dedicated Servers",
- The Specific Conditions "Load Balancer",
- The Specific Conditions of Support,
- The Appendix "Data Processing Agreement",
- The General Terms of Service,

(Hereinafter, the "Conditions of Service" or the "Contract").

In the event of any contradiction, the document of greater importance prevails.

The Client shall use the Service in compliance with the Conditions of Service. If the Client uses the Service on behalf of third parties or allows third parties to use the Service, the Client warrants that any User and/or any of its end-customers will comply therewith.

3.3 Functionalities

The Service is managed by the Client through its Management Interface and/or the Third Party Virtualization Interface.

The Service allows the Client to create and manage resources such as virtual machines, Kubernetes clusters and storage volumes.

The Service may include limitations (e.g., number of Dedicated Servers that may be used in a cluster, number of virtual machines, bandwidth, etc.). These limitations are described in the documentation and/or the specifications available on the website of OVHcloud.

3.4 Use of the Service

3.4.1 Generalities

Before using the Service, the Client takes note of all the characteristics and specifications of the Service, including those described on the website of OVHcloud, as well as the applicable Conditions of Service, and check that these conditions meet its needs, considering in particular its activities and its risk analysis.

The Client is solely responsible for using the Service, including for the protection and the preservation of its credentials to access the Management Interface, for using the Third Party Product and the other tools provided by OVHcloud as part of the Service, as well as the Content and any other data used by the Client as part of or through the Service. The Client is also responsible for carrying out any backups it deems necessary.

The Client is the sole administrator of the Service. As such, the Client manages *inter alia* the use and the configuration of the Third Party Product through the Third Party Virtualization Interface. The Client also manages the resources that it allocates in its cluster within the scope of the Service (partitioning of its virtual machines, resources, etc.) and performs the configuration of the network.

Consequently, the Client confirms it possesses all the technical knowledge necessary to ensure correct administration of the resources of the Service.

The Client is solely responsible to carry out the evolutions, version upgrades and updates of the operating systems and applications provided as part of the Service, including those relating to the Third Party Product through the Third party Virtualization Interface (e.g. updates, security patch, etc.).

OVHcloud is responsible for maintaining in operational condition (a) the Dedicated Servers (maintenance, SLAs, etc.) under the conditions provided for in the Specific Conditions "Dedicated Servers" attached in Appendix 1, and (b) the Load Balancer under the conditions provided for in the Specific Conditions "Load Balancer" attached in Appendix 2. OVHcloud also undertakes to provide the Client with the licenses of the Third Party Product in accordance with the type of cluster ordered by the Client.

3.4.2 Backups

OVHcloud does not perform any backups as part of the Service.

The Client is therefore responsible for taking all necessary measures to back up its Content in the event of loss, alteration, or deterioration of the Content, for any reason whatsoever, as well as any other type of data. As such, it is recalled that the end of the Service, for any reason (in particular, termination, non-renewal, non-payment, expiry of the Service, non-compliance with the Conditions of Service in force), as well as some operations to reinstall the Service operated by the Client, entail the automatic and irreversible deletion of all the Content.

The Service does not include a business continuity plan or a disaster recovery plan. Consequently, the Client is responsible for setting up and managing a business continuity plan and/or a disaster recovery plan. The Client must therefore take the technical and organizational measures necessary to ensure the continuity of its activity in the event of a malfunction of the Service, which may affect the availability and integrity of its Content and consequently, the continuity of its activity.

3.5 Third Party Products

The Service includes a Third Party Product developed by Nutanix®. The Client is authorized to use the Third Party Product solely within the scope of the Service.

OVHcloud does not participate in the creation and development of the Third Party Product made available to the Client as part of the Service. Consequently, OVHcloud is not responsible for the Third Party Product that may include technical errors, vulnerabilities and incompatibilities.

Prior to using the Service, the Client undertakes to read and to comply, for the duration of the Service, with the Third Party Product Terms of Use available here: https://www.nutanix.com/legal/eula

The acceptance of these Specific Conditions and/or the use of the Service means the acceptance of the above Third Party Product Terms of Use by the Client. In the event of non-compliance with the Third Party Product Terms of Use, the Client will indemnify and hold harmless OVHcloud from and against any liability in the event of a request, claim and/or action by a third party in this regard.

3.6 Service Level Agreements (SLA)

As part of the Service, OVHcloud undertakes to:
- (i) Ensure the Service levels relating to the availability of the Dedicated Servers and to the response and resolution times as detailed in Article 7 of the Specific Conditions "Dedicated Servers" in Appendix 1,
- (ii) Ensure the Service levels relating to the Load Balancer, under the conditions provided for in Article 5 of the Specific Conditions "Load Balancer" in Appendix 2.

Apart from the Service levels referred to above, OVHcloud is subject to an obligation of means.

ARTICLE 4: FEES, DURATION, BILLING AND PAYMENT

The fee varies according to the type of cluster, the additional options (e.g., configuration, number of nodes, etc.) and the lease period (the "Initial Period") selected by the Client when placing the Order. Only the fee shown on the order form issued by OVHcloud corresponds to the total amount payable by the Client.

At the time the Order is placed, as well as each time the Service is renewed, an invoice is issued and is settled by automatic payment via the means of payment registered by the Client. The Client undertakes to register a valid means of payment on its OVHcloud Client Account from among the available means of payment.

It is the Client's responsibility to determine precisely which offer best meets its needs, and the offer cannot subsequently be altered during the term of performance of the Contract.

The Initial Period starts on the day the Service is effectively provided. At the end of the Initial Period, the lease period renews automatically for successive periods of the same duration (the "Renewal Period(s)"), under the same contractual and pricing conditions as the previous period, except where the duration of the Renewal Period is altered or the Service is cancelled in accordance with the above terms and conditions or the General Terms and Conditions of Service in force at that time.

The Client can alter the duration of future Renewal Periods of its Services via its Management Interface, at least 24 hours before the end of the Initial Period or the current Renewal Period.

When the Initial Period does not start on the first day of a calendar month (mid-month start), the Service renewal cycle is realigned with a calendar cycle upon the first renewal so that subsequent Renewal Periods start on the first day of a calendar month. (For example: The automatic renewal at the end of the Initial Period of a Service initially subscribed to for one (1) year on 24 March 2022 entails the extension of the said service for the period from 24 March 2023 to 31 March 2023).

In the event of deactivation of the automatic payment under the above terms and conditions, the Service concerned is automatically cancelled and withdrawn at the end of the Initial Period or current Renewal Period ("Expiry Date"). All the Contents and data stored by the Client while using the Service are deleted within a maximum period of seven (7) days starting from the Expiry Date of the said Service. The same applies whether cancellation is immediate or made in advance. It is the Client's responsibility to take all necessary measures to ensure the preservation of the said Contents and data before cancellation of the Service.

The Client nevertheless still has the opportunity to renew the Service concerned by reactivating the automatic payment function up to 24 hours before its Expiry Date, or by paying in advance for the next Renewal Period.

The duration as well as the terms and conditions of renewal and cancellation of some options or functionalities that can be combined with the Service may differ from those applicable to the Service. It is the Client's responsibility to take note such differences.

ARTICLE 5: SUPPORT

Depending on the offer subscribed by the Client, the Service is subject to the Business Support or the Enterprise Support of OVHcloud. The conditions of use of the support are defined in the Specific Conditions of the Support related thereto.

As part of the Service, the Client must not contact the editor of the Third Party Product for questions, issues or incidents, whatever their nature, related to the Third Party Product, the Service or any of its components. The Client must always address its questions, issues, or incidents to OVHcloud through the tools made available to the Client by OVHcloud.

In the event that a question, issue or incident cannot be resolved by OVHcloud, OVHcloud may contact the editor of the Third Party Product in order to escalate the question, issue or incident encountered by the Client. In this case, OVHcloud communicates to the editor of the Third Party Product a file that summarizes the general state of the cluster as well as any information that is useful for resolution (including any information communicated by the Client as part of its request for support).

ARTICLE 6: CONSUMPTION REPORTS

As part of the Service, and solely for the purpose of communicating consumption reports of the Third Party Product, OVHcloud is required to communicate to the editor of the Third Party Product the Client's corporate name, the reference of the Third Party Product used, as well as the metrics used to assess consumption of the Third Party Product.

Appendix 1: Specific Conditions « Dedicated Servers »
Appendix 2: Specific Conditions « Load Balancer »

SPECIFIC CONDITIONS FOR DEDICATED SERVERS

CLAUSE 1: PURPOSE

The purpose of this document is to define the terms and conditions, including the terms of use and financial terms, applicable to the OVHcloud Dedicated Server leasing service (hereafter the "Service(s)"). They supplement the OVHcloud General Terms and Conditions of Service currently in force, which are applicable to the Service. In the event of contradiction, these Specific Conditions take precedence over the OVHcloud General Terms and Conditions of Service.

Terms starting with a capital letter are defined in the terms and conditions below, or otherwise in the OVHcloud General Terms and Conditions of Service.

CLAUSE 2: DESCRIPTION OF THE SERVICE

As part of the Service, OVHcloud makes available to the Client various categories of server, of which the fees, features and basic hardware and software configurations are described and accessible online on the OVHcloud website. The Client also has the use by default of a public bandwidth the capacity of which varies according to the offer and is specified on the OVHcloud website. These configurations and features may change from time to time.

In the context of each order, before choosing and using its Dedicated Server, the Client undertakes to examine carefully each available configuration in order to select the one(s) whose features meet its needs. The Service's capacities may be limited as specified on the OVHcloud's website.

Servers leased from OVHcloud have a public, fixed, non-transferable IPv4 address attached to them. These addresses remain the property of OVHcloud.

Due to the highly technical nature of the Service, OVHcloud is subject to an obligation of means, except for the Service levels detailed in Clause 7, for which OVHcloud has an obligation of result.

CLAUSE 3: ORDERS AND DELIVERY

OVHcloud informs the Client by e-mail of the provision of its Dedicated Server. The Dedicated Server is provided within a maximum period of fifteen (15) working days from the date of effective payment of the order by the Client. Beyond this time period, in the event where the Dedicated Server is not provided by OVHcloud, the Client is entitled to request cancellation of the transaction and a refund of the amounts already paid.

The effective online availability of the Dedicated Server determines the initial date on which billing takes effect.

In the event where a Client order has an impact on the stability of OVHcloud's infrastructures or on the performance of the Services provided to other Clients of OVHcloud (such as saturation of the space available within a Data Centre, etc.), OVHcloud reserves the right to consult the Client before delivering the Service for the purpose of agreeing to an alternative solution that suits the needs and constraints of the Parties.

CLAUSE 4: CONDITIONS OF USE OF THE SERVICE

4.1 General matters

Before using the Service, it is the Client's responsibility to consult the features of the Service, including those described on the OVHcloud website, as well as the applicable Service Terms and Conditions, including these

terms and conditions of use, and to check that these terms and conditions of use meet its needs, considering in particular of its activities and its risk analysis.

Given that the network resources provided to the Client are shared, the Client undertakes not to use the Service in a manner detrimental to other Clients of OVHcloud. It undertakes, in particular, not to use the outgoing public bandwidth at its disposal in an intensive manner. In such a case, OVHcloud reserves the right to apply limitations to this bandwidth, as indicated on the OVHcloud website. The Client may subscribe to additional bandwidth options to have a guaranteed public bandwidth.

The Client has the option of installing itself software packages on its Dedicated Server. These installations are carried out entirely at the Client's own risk, and OVHcloud cannot be held responsible for any malfunction of the Client's Dedicated Server following the said installations or adjustments to their settings.

The Client is the administrator of the Dedicated Server provided to it. In this capacity, the Client confirms it possesses all the technical knowledge necessary to ensure correct administration of the resources provided by OVHcloud, and to carry out the backup of data stored on the said resources. OVHcloud does not carry out any backup of the Client's data and Contents. It is the Client's responsibility to carry out, entirely at its own risk, every operation (such as backup, transfer to a third-party solution, Snapshot, etc.) necessary to preserve its Contents taking into account the nature the said Contents and its risk analysis, including in the event of interruption of the Services or in the event of maintenance operations, version upgrade or update. In this capacity the Client is reminded that interruption of the Services, regardless of the cause (including Contract cancellation, non-renewal, non-payment, interruption of Services by the Client, non-compliance with the Terms and Conditions of Service currently in force, etc.), as well as some operations to reinstall the Services operated by the Client, entail the automatic and irreversible deletion of all Contents (including information, data, files, systems, applications, websites and other elements) reproduced, stored, hosted, collected, transmitted, distributed, published, and more generally used and/or exploited by the Client in the context of the Services, including their backups, if any.

OVHcloud has no control over the Contents stored and used by the Client in the context of the Service. OVHcloud cannot be held liable, for any reason whatsoever, including in a joint capacity, for the Client's Contents, and for the use made of the Contents in the context of the Service, including passing on, distribution to internet users, collection, exploitation, updating, etc. OVHcloud can only warn the Client of the legal consequences that may ensue from illegal activities carried out either on or from the Service.

The Client refrains, as part of or through the Service, from making any activity or behaviour that is contentious such as traffic exchanges (Hitleap, Jingling, etc.), Black Hat SEO (Download, Reupload of videos on online video platforms, etc.), cryptocurrency mining, video game bots, etc.

In the context of maintenance operations, OVHcloud may replace an item of equipment in order to keep the Service in an operational condition. In such cases, OVHcloud carries out the replacement using an item of equipment that is identical or has equivalent features. When the equipment is no longer available (obsolescence, end of production and/or market availability, etc.), and it is necessary to replace it with an item of equipment that is more recent or that has a superior configuration, OVHcloud cannot guarantee the substitute item's compatibility with the Contents (including distributions, systems, software and applications) installed by the Client in the context of the Service.

4.2 Distribution

The Dedicated Servers provided to the Client by OVH do not have any pre-installed distribution (or operating system). It is the Client's responsibility to acquire from a publisher, from any authorised third party or by the intermediary of OVHcloud the necessary rights to use the selected distribution on its Dedicated Server, and to pay the related fees. In this capacity, OVHcloud offers the Client several choices of distribution on its website.

The versions of the various distributions compatible with the Service are mentioned on the OVHcloud website, as well as on the Client Management Interface, and are likely to change, as can the list of compatible versions provided by OVHcloud according to the Service ranges available.

The Client is solely responsible for installing the selected distribution on its Dedicated Server. OVHcloud ensures the interoperability of the Service with the compatible versions of the distribution. OVHcloud is nevertheless not responsible for the effective operation of the said distributions, which may among other things have errors or flaws, or result in Service malfunctions.

The Client is also responsible for carrying out maintenance operations and updating the distribution installed on its Dedicated Server. The Client is solely responsible for these operations and OVHcloud cannot be held liable in this regard for any reason whatsoever, including as a result of operations (maintenance, updates, etc.) carried out in violation of the relevant terms and conditions of use and/or licence, or an operating fault of the Dedicated Server following operations thus carried out by the Client.

Before carrying out updates or upgrades of the distribution installed on its Dedicated Server, the Client must verify the compatibility of the modification or of the new version with the Service and take the necessary measures to ensure continuity of its data.

OVHcloud reserves the right to make modifications to the Service and in particular to require distribution updates or upgrades in order to maintain the security of the Service and its Infrastructures. In the event of a development necessitating such an update or upgrade, the Client is given reasonable advance warning, except in urgent cases such as security risks that may necessitate immediate implementation. If the distribution update or upgrade is not carried out following OVHcloud's requests, OVHcloud reserves the right to interrupt the connection of the Client's Service to the network.

OVHcloud also reserves the right to carry out any updates and/or upgrades it considers required in order to maintain the security of its Infrastructures.

4.3 API applications, tools and software

The API Applications, tools and software provided by OVHcloud as part of the Service must be used in accordance with the relevant Service Terms and Conditions, including, where applicable, Third-Party Product Terms and Conditions communicated by OVHcloud.

The Client undertakes always to use the latest available versions of the API Applications, tools and software provided by OVHcloud.

The Services may be used and interconnected with elements (software, systems, connected objects, etc.) not provided by OVHcloud. The Client is responsible for acquiring all the necessary rights of use for the said elements and pays the corresponding fees directly to the third-party beneficiaries.

4.4 Location

The available Datacenter for the provision of Dedicated Servers are named on the OVHcloud website or at the time of placing the Order.

When several locations are available, the Client selects the one(s) of its choice when placing the Order.

The Client undertakes to comply with the legislation applicable to the jurisdiction in which its Dedicated Server is located and its data is stored.

OVHcloud reserves the right to suspend the Client's Service should it be used for an activity that is prohibited at the physical location of the equipment provided by OVHcloud.
With regard to geolocated IP addresses, the Client undertakes not to use the Service in contravention of the legislation applicable in the country where the IP address is declared. In the event of a breach, OVHcloud may be forced to suspend any geolocated address associated with the Client.

ARTICLE 5: MEASURES FOR THE PREVENTION OF SPAMMING FROM OVHcloud'S NETWORK

OVHcloud shall implement a system of technical measures intended to prevent the dispatch of fraudulent emails and spam from its Infrastructure.

Further to Article 5.1, OVHcloud shall monitor outgoing traffic from the Service towards port 25 (SMTP server) on the internet, which shall involve monitoring traffic by means of automatic tools.

The outgoing traffic referred to in Article 5.2 shall be monitored by OVHcloud with a delay of a few seconds, rather than being filtered or intercepted. These operations shall be conducted by OVHcloud concurrently and not, under any circumstances, directly between the Services and the internet.

OVHcloud reserves the right in certain circumstances to block the sending of emails.

OVHcloud shall not conduct any tagging of e-mails, and shall not modify emails sent by the Client in anyway whatsoever. No information shall be stored by the Supplier during these operations aside from statistical data.

The operation in Article 5.2 shall be conducted regularly and in a fully-automated manner by OVHcloud and the Client acknowledges that no human intervention is involved during the monitoring of traffic to port 25 (SMTP port).

In the case of outgoing traffic from the Client's server, including e-mails, being identified as spam or fraudulent e-mails, OVHcloud shall inform the Client by e-mail and block the Server's SMTP port.

OVHcloud shall not keep a copy of e-mails sent from the Service's SMTP port, even when they are identified as Spam.

The Client may request unblocking of the SMTP port through their Management Interface.

Any new e-mail identified as Spam will entail a new blocking of the SMTP port by OVHcloud for a longer period to be determined at OVHcloud's reasonable discretion.

On the occurrence of OVHcloud blocking the SMTP port for a third time, OVHcloud reserves the right to deny any new request for the unblocking of the SMTP port.

ARTICLE 6: MITIGATION (protection against DOS and DDoS attacks)

OVHcloud shall implement protection against DOS and DDoS-type (Distributed Denial of Service) hacking attempts provided that these attacks are conducted in a manner reasonably considered to be serious enough by OVHcloud to justify such protection. In implementing such protection, OVHcloud shall use reasonable endeavors to ensure that the operation of the Client's Services is maintained throughout the duration of a DOS or DDoS attack.

The function in Article 6.1 involves monitoring the traffic sent to the Client's Services from outside the Supplier's network. The traffic identified as illegitimate shall then be rejected by OVHcloud prior to reaching the Client's Infrastructure, thus allowing legitimate users to access the applications offered by the Client in spite of the attack.

As a result of the high technicality of the Service, certain attacks may not be detected by the protection measures implemented by OVHcloud. The protection measures outlined in Articles 6.1 and 6.2 shall not apply in the case of attacks such as SQL injection, brute-force, abuse of security vulnerabilities, or attacks of a similar nature to the latter. In such cases, the Infrastructure and the Service may be temporarily suspended and unavailable.

Given the nature of a potential DOS or DDoS attack and their complexity, OVHcloud shall implement different levels of traffic protection in order to preserve the Infrastructure and the Services.

The mitigation of a DOS or DDoS attack is activated only at the time of the detection of the attack by the OVHcloud's tools and for a non-fixed period, and deactivated only once the attack and illegitimate traffic are no longer present. Thus, until the mitigation is activated, the Service shall handle the attack directly, which may lead to the temporary unavailability of the Service.
While mitigation is activated, OVHcloud shall not guarantee the accessibility of the Client's applications but it shall endeavor to limit the impact of a DOS or DDOS attack on the Client's Services and on OVHcloud's Infrastructure.

If, in spite of the activation of mitigation, a DOS or DDOS attack is of such a nature as to adversely affect the integrity of the OVHcloud's Infrastructure or the infrastructure of the other Clients of OVHcloud, OVHcloud shall strengthen its protection measures which may lead to the deterioration of the Client's Services or impact its availability for which OVHcloud shall not be liable.

Where part of the traffic generated by a DOS or DDOS attack is not detected by OVHcloud's equipment and reaches the Client's Services, the effectiveness of the mitigation shall also depend on the appropriate configuration of the Client's Services. In this regard, the Client must ensure that it has the adequate resources to administer the configuration of the Client's Services properly.

The Client shall be solely responsible for ensuring it secures its Services, implementing security tools (firewall, etc.), periodically updating their system, backing up their data and for ensuring the security of their software (scripts, codes etc.).

CLAUSE 7: SERVICE LEVEL AGREEMENTS (SLAs)

When the Service is unavailable or is experiencing malfunctions for which OVHcloud may be held responsible, it is the Client's responsibility to contact OVHcloud and to open a support ticket from its management Interface.

SLAs. OVHcloud undertakes to ensure Service levels relating to availability of the Dedicated Server and to the response and resolution times as detailed below.

Service Credits. In the event of non-compliance with these SLAs, (except in the case of the exclusions listed), the following penalties will apply, subject to the opening of an incident ticket by the Client from its Management Interface (except in the case of a general failure qualified by OVHcloud):

Service	Service Credits
Availability of the Dedicated Server: - Range HG: 99,99% - Range SCALE: 99,99% - Range HIGHGRADE: 99,99% - Range INFRA/ADVANCE: 99,95% - Range RISE: 99,9% - Range SO YOU START: 99.9% - Range KIMSUFI: 99.9%	Credit of 5% of the monthly cost of the unavailable Dedicated Servers, for every thirty (30) minutes of unavailability begun in excess of the SLA, limited to 50% of the said monthly cost.
Guaranteed response time of one (1) hour*, Level 1 Incident (Dedicated Server Hardware)	Credit of 5% of the monthly cost of the unavailable Dedicated Server, for every thirty (30) minutes of unavailability begun in excess of the SLA, limited to 50% of the said monthly cost.
Guaranteed resolution time of one (1) hour**, Level 1 Incident	Credit of 5% of the monthly cost of the unavailable Dedicated Server, for every thirty (30) minutes of

(Dedicated Server Hardware)	unavailability begun in excess of the SLA, limited to 50% of the said monthly cost.
Guaranteed response time of one (1) hour*, Level 2 Incident (Performance of the Dedicated Server)	Credit of 5% of the monthly cost of the affected Dedicated Server, for every thirty (30) minutes of unavailability begun in excess of the SLA, limited to 50% of the said monthly cost.

(*) The response time is calculated from the creation of the support ticket. "Response" means the initial response to the support ticket by OVHcloud technical staff and not resolution of the Incident.

(**) The resolution time is calculated from the start of the response. "Resolution" means solely the restored availability of the unavailable Dedicated Server or replacement of the said Dedicated Server in the event of a fault, excluding restoration of data, systems and applications that were stored and/or installed by the Client on the unavailable Dedicated Server.

"**Level 1 Incident**" is to be understood as meaning any Incident resulting in total non-availability of the Dedicated Servers, such as hardware problems (Power Outage, Disk fault, etc.)

"**Level 2 Incident**" is to be understood as meaning any Incident resulting in substantial deterioration in the performance of the Dedicated Servers such as latency problems, delayed access times, performance problems, slowed-down applications, etc.

"**Monthly availability rate**" is to be understood as meaning: the total number of minutes in the month concerned less the number of minutes of non-availability in the month in question, the total being divided by the total number of minutes in the month in question. For the purpose of calculating compensation, non-availability is calculated from the opening of the support ticket, until resolution of the malfunction.

"**Unavailability**" is to be understood as meaning the impossibility of accessing the public IPv4 address of one or more Dedicated Servers owing to a fault or malfunction of an item of OVH equipment (network or other). Faults and malfunctions of OVHcloud equipment that do not prevent access to the Dedicated Servers are not considered as non-availability.

The above Service Level Agreements are undertaken subject to the exclusions set out above, and on condition that the Client cooperates with OVHcloud to restore the Service in the event of non-availability. If a single event results in failure to fulfil more than one of the Service Level Agreements described above, multiple compensation payments will not apply. In such a case, the service credit most favourable to the Client will apply. In the same way, the total amount of service credits made during a single month, for all events combined, cannot exceed 50% of the total monthly cost of the affected Service.

When declaring the Incident and creating the ticket, the Client gives OVHcloud all the relevant information needed for OVHcloud's diagnosis and response. The Client undertakes to remain available at all times for the purpose of cooperating with OVHcloud immediately upon request, including supplying it with any additional information, and carrying out all necessary tests and checks. If necessary, the Client gives OVHcloud access to its Management Interface.

It is expressly agreed that the service credits set out above constitute, for the Client, an all-inclusive payment for all loss or damage resulting from OVHcloud's failure to meet the service agreements in question; and as such the Client waives any right to any other request, complaint or action.

Service credits are issued if and when Client has paid all its overdue invoices, and are deducted from the invoice for the month following receipt by OVHcloud of the Client's claim provided that all previous and overdue invoices have been paid by the Client.

Exclusions. The Client cannot in any circumstances rely on this Clause to claim the services credits set out above in the event of non-availability resulting wholly or in part from (i) events or factors beyond the control of OVHcloud such as but not limited to instances of force majeure, act of a third party, malfunction or misuse of equipment or software within the Client's control, (ii) the Client's failure to fulfil its obligations as set out in this Contract (including lack of cooperation to resolve the Incident), (iii) misuse or inappropriate use of the Service by the Client (including incorrect or inappropriate network configuration), (iv) planned maintenance, (v) suspension occurring within the terms and conditions set out in the General Terms and Conditions of Service or (vi) hacking or software piracy. In such cases, and subject to point (iv), OVHcloud reserves the right to invoice the Client for any support provided to restore availability. A quotation for this support will be submitted to the Client for authorisation.

The causes of unavailability, including instances of the exclusions defined above, are established by OVHcloud by whatever means it sees fit, including on the basis of elements of OVHcloud's information system (such as connection data) which, by express agreement, will be admissible.

For the ranges SCALE and HIGHGRADE of the Dedicated Server, the guarantee of availability of 99.99% is subject to the configuration, by the Client, of the functionality OLA, in order to prevent a cut in service if a link server network comes to be cut. If that condition is not met, the guarantee of availability is 99.95%.

CLAUSE 8: OVHcloud SUPPORT

8.1 Premium Support

The RISE, SO YOU START and KIMSUFI ranges are excluded from the scope of the Premium support level.

8.2 Contact methods

By express derogation from Article 6.2. (Contact OVHcloud Support) in the General Terms of Service, OVHcloud Support is only available under the KIMSUFI range by opening a ticket, which can be done via the Management Interface. Calls to OVHcloud Support are not supported for this range.

APPENDIX 2

SPECIFIC CONDITIONS
LOAD BALANCER

ARTICLE 1: PURPOSE

The purpose of this document is to define the Specific Conditions, particularly the terms of use and financial conditions, that are applicable to the Load Balancer service provided by OVHcloud (hereinafter referred to as the "Service").

ARTICLE 2: DESCRIPTION OF THE SERVICE

As part of the Load Balancer Service, OVHcloud provides the Client with a load balancer ("Load Balancer") that enables it to spread out the workload by distributing its traffic packets over several of its services. This enables the Client to benefit from improved performance, optimized response times and greater resilience towards failures and downtime.

For the duration of the subscription, OVHcloud also provides the Client with a Control Panel and an API enabling it to set up and manage the Service and configure their Load Balancer.

Before choosing and using its Load Balancer, the Client shall carefully study each available offer to select the one with the characteristics that best meet its requirements, notably whether if Client's Load Balancer should be on a shared or dedicated infrastructure.

The different features and characteristics of the Load Balancers are described and accessible on the OVHcloud website. These features and characteristics change regularly. It is the Client's responsibility to note these changes, particularly when making new orders.

The capacities and features of the Service can be limited, depending on the type of offer. These limits on capacities and features are specified on the OVHcloud website.

Due to the highly technical nature of the Service, OVHcloud is only subject to an obligation of means (best efforts).

ARTICLE 3: CONDITIONS OF USE OF THE SERVICE

3.1 Prerequisites

Before using the Service, it is the Client's responsibility to take note of all its characteristics, especially those described in the article, "Description of the Service" above, as well as the applicable Terms of Service, including these conditions of use, and to check that these conditions meet its requirements, particularly in view of their activities and risk analysis.

To use the Service, the Client must be using other services that have an IP address and are compatible with its Load Balancer, such as Dedicated Servers, Public Cloud Instances, Virtual Private Servers (VPS) or Private Cloud infrastructures.

It is the Client's responsibility to decide which offer best meets its requirements.

The Client must also have an internet connection to sign in to its Control Panel and access the Service. The Client is solely responsible for this internet connection's availability, reliability and security.

Should the internet service be protected by a firewall, it is the Client's responsibility to deactivate it in order to enable the connections of its Load Balancer to the service and thereby ensure the correct functioning of the Load Balancer.

3.2 General

The Client confirms that they have all the technical skills required to ensure correct administration of the Load Balancer provided to them by OVHcloud. The Client shall also read all the documentation related to the Service provided by OVHcloud.

The Client acts as an independent entity and takes full responsibility for the risks and dangers of its activity.

OVHcloud reserves the right to:
-   suspend the Service without notice and immediately terminate as of right the Contract, without prejudicing its right to any damages and compensation to which OVHcloud may file a claim, should the Client fail to comply with the specific and general conditions of OVHcloud, make illicit or fraudulent use of the Service or fail to pay for it;
-   carry out checks to ensure that the Client's use of the Service complies with the provisions herein;
-   filter or limit access to certain ports considered to be sensitive, so as to protect the infrastructure. Likewise, the Client acknowledges that there are limitations on UDP/ICMP flows.

OVHcloud takes no responsibility under any circumstances for ensuring the continuity of the Client's activity. It is the Client's responsibility to take all the technical and organizational measures (such as implementing periodical backups) necessary for maintaining its activity, including in the event of a major malfunction that could have an impact on the availability, integrity or confidentiality of its data, systems and applications.

3.3 Configuration and maintenance

The Client is solely responsible for the administration, configuration and use of its Load Balancer. As such, OVHcloud disclaims any liability for the malfunctioning of the Service caused by incorrect configuration of the Load Balancer by the Client.

OVHcloud is responsible for the administration and maintenance in operational condition of the infrastructure on which the Client's Load Balancer is based. OVHcloud therefore reserves the right to upgrade the Service in order to preserve its security or to maintain it in good operating condition. OVHcloud may therefore carry out maintenance operations, version upgrades or updates. OVHcloud will inform the Client about all planned maintenance operations through the interface intended for this purpose.

OVHcloud is by no means obliged to carry out any type of backup of the configuration of the Client's Load Balancer. It is the sole responsibility of the Client to carry out any operations necessary to maintain its configuration, considering the level of criticality of the Service for the Client's activity and its risk analysis, including if the Service stops or there are maintenance operations, version upgrades or updates.

OVHcloud reminds the Client that all Service features enabling the return to a previous configuration are not under any circumstances long-term backup methods for the Client's configuration.

3.4 APIs, tools and software

APIs, tools and software provided by OVH within the scope of the Service shall be used in accordance with the applicable Terms of Service, including, if need be, the Conditions of Third Party Products as communicated by OVHcloud.

The Client shall always use the latest available versions of the APIs, tools and software provided by OVHcloud.

3.5 Locations

The Datacenters available to the Load Balancer Service are provided on the OVHcloud website or when the Order is made.

When several locations are available, the Client can select their choice(s) when ordering.

The Client shall comply with the legislation applicable to the area in which their Service is located.

OVHcloud reserves the right to suspend the Client's Service should the Service be used for an activity that is prohibited in the geographical location of the hardware provided by OVHcloud.

Regarding geolocated IP addresses, the Client shall ensure that they do not use the Service to breach legislation applicable in the country where the IP address is declared. If the Client uses the Service in this way, OVHcloud may be forced to suspend every one of the Client's geolocated IP addresses.

ARTICLE 4: MITIGATION (PROTECTION AGAINST DOS AND DDOS ATTACKS)

OVHcloud will implement protection against DOS (denial of service) and DDOS (distributed denial of service) cyber attacks, provided that they are carried out on a large scale. This feature is intended to enable the continued operation of the Client's Service for the duration of the attack.

This feature consists of verifying traffic to the Client's Service coming from outside the OVH network. Traffic that is deemed illegitimate is then rejected upstream from the Client's infrastructure, enabling legitimate users to access the applications provided by the Client despite the cyber-attack. These protection measures cannot help to prevent cyber-attacks such as SQL injections, Bruteforce, exploitation of security flaws, etc. Due to the high level of complexity of the protection Service, OVHcloud is only subject to an obligation of means (best efforts), and it is possible for an attack not to be detected by the tools used, or for these tools to fail to maintain the continued operation of the Service.

Depending on the nature of the attack and its complexity, OVHcloud shall use various levels of traffic protection to preserve its infrastructure and the Client's Service.

Mitigation measures are activated only upon detection of an attack by OVHcloud tools. Therefore, until the activation of the mitigation measures, the Service faces the attack head-on, which may lead to some downtime.

The mitigation measures are activated for an indefinite period and are automatically deactivated once OVHcloud can no longer identify any malevolent or illegitimate traffic being sent to the Client's Service.

For the duration that the mitigation measures are activated, OVHcloud cannot guarantee the accessibility of the Client's applications but will seek to limit the impact of this attack on the Client's Service and the OVHcloud Infrastructure.

If, despite activating the mitigation measures, the cyber attack is likely to affect the integrity of OVHcloud infrastructures or other OVH Clients, OVHcloud will strengthen its protection measures, which may lead to a reduction in the Client's Service or impact its availability.

Finally, it is possible that a part of the traffic generated by the cyber attack is unable to be detected by OVHcloud tools and reaches the Client's Service. The effectiveness of the mitigation measures also depends on the

configuration of the Client's Service, and as such it is the Client's responsibility to check that they have the skills necessary to ensure proper administration.

As a reminder, these mitigation measures do not under any circumstances exempt the Client from securing their own Service, implementing security tools (firewall etc.), regularly updating their system, backing up their data and even ensuring the security of their computer programs (scripts, codes etc.).

ARTICLE 5: SERVICE LEVEL AGREEMENTS (SLA)

OVHcloud shall provide levels of Service related to the availability of the Load Balancer and the restoration time, as described on the OVHcloud website. If the service levels described above are not met, subject to the exclusions listed below, the Client may request the following credits:

OVHcloud Commitments	Compensation
Monthly availability rate	Credit of five per cent (5%) of the monthly payment made by the Client for the month in which the Load Balancer is affected by downtime, for every one (1) complete hour of downtime (beyond the SLA), to a limit of one hundred per cent (100%) of the monthly subscription payment.
Guaranteed restoration time*	Credit of five per cent (5%) of the monthly payment made by the Client for the month in which the Load Balancer is affected by downtime, for every one (1) complete hour (beyond the SLA), to a limit of one hundred per cent (100%) of the monthly subscription payment.

The "Restoration time" is the time elapsed between the observation by OVHcloud of an ineffectiveness of the Service to ensure the load balancing. "Restoration" only means the restoration of the effectiveness of the affected Load Balancer.

*The term "**availability**" refers to the functional state of the Service that enables the effectiveness of its primary function of load balancing, as well as access to and configuration of the Service via the internet. It should be noted that any problems or malfunctions caused by an incorrect configuration of the Service by the Client are not considered as downtime.*

The above Service Level Agreements are provided, subject to the exceptions below.

If OVHcloud finds that the Load Balancer is available and functioning correctly, OVHcloud is exempt from its obligations under this SLA.
If OVHcloud detects downtime, it shall finalize the diagnosis and work to restore availability.

Credits are directly credited on the OVHcloud account of the Client. Credits must be consumed by the Client in the context of OVHcloud Load Balancer Service and during the calendar month following the moment when they have been credited on the OVHcloud account of the Client, otherwise compensation will not be granted. The credits cannot, under any circumstances, be reimbursed to the Client in the form of cash.

It is expressly agreed that the aforementioned credits constitute lump-sum compensation to the Client for all damages resulting from OVHcloud failing to fulfill the Service Level Agreements in question. The Client therefore waives any other demands, claims or actions.

If an event causes the non-fulfillment of several Service Level Agreements, the credits are not cumulative. The most favorable credit is awarded to the Client.

The Client cannot, under any circumstances, use this article to claim the aforementioned credits in the event of downtime resulting in whole or in part from (i) events or factors beyond OVHcloud's control, including, but not limited to, *force majeure*, third parties, internet connection problems, network failure, malfunction or misuse of

equipment or software under the control of the Client (particularly applications being run on the Instance); (ii) a failure on the part of the Client to fulfill their obligations as part of this Contract (particularly lack of cooperation to resolve the incident); (iii) misuse or inappropriate use of the Service by the Client (particularly incorrect configuration or use of the Load Balancer or the Control Panel, etc.); (iv) scheduled maintenance; (v) an interruption as stipulated under article 6 herein; (vi) hacking or digital piracy. In such cases, with the exception of point (iv), OVHcloud reserves the right to charge the Client for any necessary intervention carried out to restore availability. This is subject to a quotation submitted for validation by the Client.

The causes of any downtime, and particularly the ascertainment of the exceptions described above, shall be established by OVHcloud by any means, including on the basis of elements of the OVHcloud information system (such as connection data) that shall be admissible by express agreement.