

## SPECIFIC TERMS OF SERVICE FOR VIRTUAL PRIVATE SERVER

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### What's new?

Service description and VPS ranges have been updated to reflect evolutions and new ranges.

### History :

If you wish to consult the previous version of this document, click [here](#).

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## 1. WHAT IS THIS DOCUMENT ABOUT?

These SC and its appendices define the terms of use and financial conditions applicable to the OVHcloud Virtual Private Server Service (hereinafter referred to as the “**VPS Service(s)**”).

These SC supplement the current GTC.

## 2. DEFINITIONS

Capitalized terms in these SC are defined in this document, or in other contractual documents forming the Contract.

“**Rack**”: Container used to store servers and other IT or telecom equipment.

“**Resources**”: Resources in the context of Virtual Private Servers are computing components such as CPU, memory, storage and bandwidth that are allocated to and utilized by a VPS for running its operating system applications and services.

“**VPS**”: A VPS, or Virtual Private Server, is a cloud hosting service through which the client is able to access virtualized server resources over the internet. Each VPS resides on a physical machine alongside others, sharing a hypervisor and the underlying hardware. However, each VPS runs its own Operating System, applications and has a designated resource portion.



### **3. WHAT IS PART OF THE VPS SERVICE?**

#### **What is a VPS?**

VPS is a popular web hosting model that belongs to the classic IaaS (Infrastructure as a Service) services.

#### **What does OVHcloud provide?**

As part of the VPS Service, OVHcloud provides the Client with a VPS, which configuration is chosen by the Client when placing the Order, as well as a geolocated IP address according to the physical location of the VPS chosen by the Client.

#### **Are the resources of a specific VPS dedicated?**

For any VPS, the physical components of the network and of the Host Server Resources remain the exclusive property of OVHcloud and are shared by the various VPS belonging to different clients installed on the same Host Server. However, a portion of these Resources is virtually allocated to each client's VPS.

#### **Which configurations are available?**

A description of the different available configurations and features of the VPS (disk partition, RAM, processor, operating system, etc.) is available online on the Website. These configurations and features change regularly. It is the Client's responsibility to keep track of these changes, particularly upon new Orders.

#### **How is the configuration of the VPS Service defined and which restrictions apply?**

As part of the VPS Service, the Client can modify the configuration of their VPS according to the models offered by OVHcloud. This change can be made by the Client from its Control Panel. This modification will take place within a few hours after the Order. Please note that it is only possible to switch to a higher configuration.

As the VPS Service is based on virtualization technologies, the Client acknowledges that OVHcloud cannot guarantee the feasibility of switching requests.

OVHcloud reserves the right to restrict the VPS Service bandwidth to 1 Mbps (1 Megabit per second) until the end of the current billing period in cases of excessive use by the Client.

If traffic is limited within a specific VPS Service offering, this limitation will be communicated on the Website where that VPS Service is described.

#### **How are the basic responsibilities for the administration and management of the VPS Service shared between OVHcloud and the Client?**

Throughout the duration of the VPS Service, OVHcloud provides access to a Control Panel which enables the Client to configure and manage the VPS Service (creation, deletion, modifications, etc.) and view usage statements.

The Client is the sole administrator of the VPS. OVHcloud does not intervene in its administration under any circumstances. However, OVHcloud is responsible for the administration of the hardware and network physical Infrastructure, more specifically the administration of the Host Server on which the Client's VPS is installed. Before selecting and using their VPS Service, the Client agrees to carefully review each available configuration in order to select the one best suited to its needs.

As some of the Resources on which the VPS Service provided to the Client is installed are shared with other Services installed on the same Host Server, the Client agrees to not use the VPS Service in a way that is detrimental to other OVHcloud clients or that harms the reputation of the Host Server's IP address.

Due to the highly technical nature of the Service, OVHcloud is only subject to a "reasonable endeavours" obligation.



#### **4. HOW DOES THE CLIENT GAIN ACCESS TO VPS SERVICES?**

Once the Client's Order has been confirmed by OVHcloud, OVHcloud sends access codes that will enable the Client to connect to the VPS. These access codes are temporary codes that the Client shall change upon first connection, while respecting best practices in terms of secure and confidential authentication methods and GTC provisions regarding "Means of Authentication".

#### **5. WHAT ARE THE TERMS AND CONDITIONS OF USE FOR THE VPS SERVICES?**

##### **What knowledge is required?**

The Client agrees to familiarize themselves with the documentation provided by OVHcloud relating to the VPS Service available on the Website.

##### **Who is considered the “hosting provider” regarding the Content?**

The Client is the hosting provider within the meaning of the applicable law, since it undertakes, even free of charge, in order to render accessible to the public via online public communication services, the hosting of signals, writings, images, sounds or messages of any kind, supplied by the recipients of those services.

It is the Client's responsibility to take all the technical measures allowing for the holding and retention of connection logs or any data that allows the identification of anyone who contributed to the creation of content or the content of services for which the Client is a provider if so required by applicable law.

##### **Tools, software and API applications**

As part of the VPS Service, OVHcloud manages the usage of Resources made available to the Client through an agent, installed on the hypervisor hosting the VPS Service, that monitors their usage rates.

The APIs, tools and software provided by OVHcloud as part of the VPS Service must be used in compliance with the Contract, including Third-Party Product Conditions communicated by OVHcloud, if applicable. The Client agrees to also use the latest available versions of the APIs, tools and software provided by OVHcloud.

##### **Changes and Updates to the VPS Service**

Further to the Updates performed by OVHcloud (see the GTC in section “Maintenance”), the Client may also perform maintenance operations and updates on pre-installed operating systems and applications. If the Client decides to do so, it shall be fully responsible for these operations and any violations of applicable conditions of use and/or license conditions or any malfunctions following from it.

In order to maintain the security level of the Client's VPS and of all of the servers in its Infrastructure, OVHcloud will notify the Client of available updates for applications maintained by OVHcloud for which a security flaw has been identified. If these applications are not updated following the request from OVHcloud, OVHcloud reserves the right to interrupt the VPS connection to the Internet. Likewise, in the event that OVHcloud detects that the Client's VPS has a security issue, the Client is notified via email or any other agreed channel of communication. The client may be informed that a reinstallation is required in order to maintain the integrity of the VPS and the Infrastructure as a whole. OVHcloud reserves the right to interrupt the VPS connection to the Internet until the Client reinstalls it. The Client must carry out operations relating to transferring compromised system data to the new system. OVHcloud's responsibility and its involvement is limited to the installation of the new system.

##### **VPS Service Location**

When several locations are available, on the Website, the Client can select the location(s) of their choice upon its Order. The location selection is final and cannot be changed later.



## 6. WHICH SERVICE LEVEL AGREEMENTS (SLA) AND THE SERVICE CREDITS ARE APPLICABLE ?

### Conditions and Restrictions

OVHcloud commits to the SLA describes below with respect to the availability of the VPS Service.

The SLA are not a commitment regarding the availability of elements that are under the Client’s control, such as software or applications installed on the VPS Service and used by the Client. OVHcloud implements technical tools for monitoring VPS Service, in particular via “PING” requests. This SLA is not applicable in the event that OVHcloud is unable to perform the technical operations required for VPS Service monitoring due to the Client’s configuration of their VPS Service.

If OVHcloud confirms that a VPS Service is available and in good working order, OVHcloud is released from its obligations under this SLA. However, in this case, upon the Client’s request, OVHcloud agrees to assist them in identifying the cause of the issues found by the Client. If OVHcloud identifies an Unavailability, then the SLA is applicable and OVHcloud completes the diagnostic and works in collaboration with the Client to reestablish availability.

### Credits

If the SLA set out below are not met, the Client can request the following credits (subject to the exclusions mentioned herein as well as in the GTC):

Service	SLA (Monthly availability rate)	Credit
VPS STARTER Range	>99.0 % and <99.5 %	Credit equal to 10% of the monthly amount paid by the Client for the month during which the components were affected by the Unavailability
	<99.0 %	Credit equal to 50% of the monthly amount paid by the Client for the month during which the components were affected by the Unavailability
Other VPS Ranges	>99.5 % and <99.9 %	Credit equal to 10% of the monthly amount paid by the Client for the month during which the components were affected by the Unavailability
	<99.5 %	Credit equal to 50% of the monthly amount paid by the Client for the month during which the components were affected by the Unavailability

**“Monthly availability rate”**: the total number of minutes in the given month minus the number of minutes of Unavailability over this month. The total is divided by the total number of minutes in this month and then expressed in percentage.

**“Unavailability”**: the loss of access to and inability to reboot the VPS, for more than three (3) consecutive minutes from the moment an Incident ticket has been opened by the Client.

## 7. DURATION

The **“Initial Duration”** begins on the day that the VPS Service is activated. At the end of the Initial Duration, the VPS Service automatically renews in successive periods of the same duration (**“Renewal Period(s)”**), unless the VPS Service is renewed with a modified duration or terminated.



## **8. BILLING AND PAYMENT**

### **Billing**

Upon Ordering, as well as when upon VPS Service renewal, an invoice is issued and paid automatically using the payment method registered by the Client.

Any VPS Service created and its associated Resources are invoiced, regardless of the actual use by the Client.

Billing ends when the VPS Service and its associated Resources are deleted at the end of the current duration Initial or Renewal Period. VPS Services and its associated Resources that have been disabled, but not deleted, will continue to be billed.

### **Cancellation**

If the Client does not wish for a VPS Service to be renewed at the end of its Initial Duration or current Renewal Period, it must deactivate the automatic renewal function in its Control Panel following the procedure displayed on it ("**Cancellation**"). The procedure may include the provision of confirmation of the deactivation by any provided mean, such as clicking on a link on an automatic email generated after the deactivation request.

The duration of certain options or functions that may be associated with the VPS Service, along with their renewal and termination conditions, may differ to those applicable to the VPS Service. It is the Client's responsibility to be aware of these.

### **List of appendices:**

#### **APPENDIX 1: Specific Terms of Service for Virtual Private Server(s) - Automated Backup Service**

## APPENDIX 1 : SPECIFIC TERMS OF SERVICE FOR VIRTUAL PRIVATE SERVER(S)

### AUTOMATED BACKUP SERVICE

The Automated Backup Service is an option offered by OVHcloud (the “**Backup Service**”). It is integrated into the Control Panel and enables the Client to save and restore its VPS Service (excluding additional disks), or all or part of the data stored on it.

#### 1. CONDITIONS OF BACKUP SERVICE IMPLEMENTATION

The Client is responsible for ensuring that the backups are carried out in accordance with its request and the chosen configuration. The Client is able to retrieve all or part of its data via the Control Panel.

If the Backup Service allows, depending on the Client's choice and availability, this storage space may be located either in another Data Centre or, within the same Data Centre, in a different Rack from the one in which the Client's VPS Service is set up.

OVHcloud reminds the Client that the storage space allocated to the Backup Service does not under any circumstances constitute a guarantee against the loss of Client data. As such, it is the Client's responsibility to implement a business continuity plan (BCP) and/or a disaster recovery plan (DRP) in order to have resources in different risk environments. The Client may obtain additional information regarding the implementation of a BCP and/or DRP or backup option located in a Data Centre other than the Client's VPS Service, by contacting OVHcloud Support under the conditions set out in the applicable General Terms of Service.

#### 2. OBLIGATIONS, RESPONSIBILITIES AND RIGHTS OF OVHcloud

##### Obligations of OVHcloud

OVHcloud undertakes to apply due care and diligence so as to deliver a quality service, in accordance with good industry practice and the current state of technology. Due to the highly technical nature of the Service, OVHcloud is only subject to a “reasonable endeavors” obligation.

OVHcloud reserves the right to suspend the Client's Backup Service to carry out technical operations to improve the operation of the Backup Service. OVHcloud will then inform the Client in advance, as far as possible, within a reasonable period of time, informing the Client of the nature and duration of the intervention, so that the Client can make arrangements. It is the Customer's responsibility to be vigilant about their next backup.

##### Rights of OVHcloud

OVHcloud reserves the right to modify its prices and those concerning the Client's Backup Option, due to any excessive use of the Backup Service.

If the Backup Service is used in a forbidden way, OVHcloud may limit or suspend all or part of the Backup Service.

##### Responsibility for the Data in Backup Service

OVHcloud shall not be liable to the Client in respect of the correct execution of the Backup Service.

It is the Client's responsibility to verify the backup carried out, and in the event of failure, to seek the causes thereof, and to inform OVHcloud technical support, so that a new backup of its VPS Service is made.

In the event of a proven malfunction in the Backup Service, OVHcloud can disable the Backup Service after having informed the Client.

### **3. OBLIGATIONS AND RESPONSIBILITIES OF THE CLIENT**

#### **Responsibility for the Content**

The Client acts as an independent entity and, as such, accepts full responsibility for all risks and liabilities of its activity. The Client is solely responsible for the files and data stored on its Backup Service. In the event of failure of the storage space allocated to the Backup Option, and/or of the data therein being corrupted or inaccessible, the Client shall, as soon as reasonably possible, make a new backup of the data. The Client undertakes to use the Backup Service with due diligence and in accordance with the applicable law.

#### **Backup, Encryption and Business Continuity**

The Client shall be responsible for ensuring that the VPS backup has been successfully completed. In the event of any issue arising, the Client will take all measures necessary to relaunch the backup.

The Client is responsible for encrypting, backing up and protecting the Content against:

- (i) the risks of loss or deterioration, by implementing appropriate measures to ensure that they are backed up on separate physical media that are geographically distant and outside the Services;
- (ii) risks of disclosure, by implementing measures to ensure encryption and protect against cyber-attacks.

The Client is therefore solely responsible for implementing and managing a continuity and/or recovery plan, and more generally for all technical and organizational measures likely to enable it to continue its business in the event of unavailability of the Services, or loss or deterioration of its Content.

### **4. DELETION OF DATA**

The Client acknowledges that all data stored on the storage space allocated to the Backup Option will be deleted by OVHcloud following non-renewal of the Backup Option and non-renewal of the VPS Service.

It is the Client's responsibility to retrieve all of its data prior to the Backup Option expiry date, or that of its VPS Service.

### **5. BILLING**

The duration of the Backup Service is the same as that of the VPS Service to which it is attached. It is renewed in the same way as the VPS Service.

The Customer may terminate the Backup Service via its Control Panel. This can only be done at the end of the Initial Subscription Term for the VPS Service or its Renewed Term.

If the VPS Service is terminated, this results in the termination of the associated Backup Service on the same date, as well as the deletion of all its Content.

Invoicing for the Service is associated with that of the Customer's Virtual Private Server. The Backup Service is invoiced monthly in addition to the cost of the VPS.