OVHcloud

<div style="background:blue">**GENERAL TERMS OF SERVICES**</div>

Version of January 17, 2025

> Changes:
> We updated our General Terms of Services to be simpler, easier to read and streamline its provisions. Definitions of Regions and Availability Zones have been added.
> Previous version:
> The previous version of this document is available [here](#).

WHAT IS IT ALL ABOUT?

These General Terms of Services ("**GTS**") and the documents to which they refer, form a contract ("**Contract**") between OVH AUSTRALIA PTY LTD, headquartered at Level 12, 90 Arthur Street, North Sydney VIC NSW 2060, Australia, registered under the number 612 612 754("**OVHcloud**"), and any natural or legal person, consumer or professional, private or public law entity ordering or using OVHcloud Services ("**Client**"). The GTS define the conditions of provision and use of OVHcloud's Services under the Contract. OVHcloud and the Client are referred to, individually as a "**Party"** and collectively as the "**Parties**".

The Contract consists of the following documents, listed in descending order of priority:
- The Specific Conditions of Service,
- The GTS,
- The Third-Party Products Conditions,
- The Orders,
- all information made available to the Client at the time of the Order.

In the event of contradiction, the higher-ranking document shall prevail. By using and/or downloading the Services, the Client accepts all the contractual documents constituting the Contract. The Contract constitutes the entire agreement of the Parties with respect to its subject matter, and cancels and replaces any previous agreements or discussions, as well as any general terms and conditions of the Client.

CONTENT

1. DEFINITIONS

"Affiliate(s)": any entity that OVHcloud controls, that control OVHcloud or with which OVHcloud is under the common control of a third entity, with the exception of entities located in the United States of America. 'The control means (a) the ownership of fifty percent (50%) or more of the voting rights or other ownership interest in an entity, or (b) the ability to direct the business affairs or the composition of the board of directors or equivalent body of another entity, whether through the ownership of voting rights, by contract or otherwise.

"Availability Zone(s)" or **"AZ(s)"** is a physically distinct set of one or more Datacenter(s) within one given Region and whose deployment model is designed to ensure higher availability and fault tolerance for cloud services and applications. Availability Zones are connected via dedicated, regional networks and can be used to configure a redundant infrastructure.

"Client Account": account created by the Client on the Website.

"Commitment Period": minimum period of use of the Services chosen by the Client when placing the Order. The Commitment Period is firm and linked to the tariff option chosen by the Client.

"Consumer": A Client who is a consumer within the meaning of the consumer protection applicable in Australia.

"Content(s)": all information, data, files, systems, software, applications, websites and other items reproduced, hosted, collected, stored, transmitted, distributed, published, and more generally used or operated by the Client and/or Users in connection with the Services.

"Control Panel ": the part of the Client Account that enables the Client to order, administer and configure Services, and to retrieve invoices and consumption statements. Client accesses this area with Client ID and password.

"**Credit(s)**" or "**Service Credit(s)**": sum granted by OVHcloud to the Client if the SLAs are not met.

"Datacenter": physical site or computer room managed by OVHcloud, housing all the computer equipment necessary for the operation of an information system and intended for the provision of Services.

"Evolution(s)": any discontinuation or substantial modification of a Service, for example, updates, new versions, additions, modifications, withdrawals of functionalities, ranges, options, performance, or the discontinuation of marketing of a Service by OVHcloud. Changes apply equally to all current and future Clients of that Service.

"Export Control": restrictions arising from international rules, in particular Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast), as well as United States regulations such as the EAR (*Export Administration Regulations*) and ITAR (*International Traffic In Arms Regulations*), in the event that the Client markets OVHcloud solutions, services or goods to third parties subject to United States regulations.

"Incident(s)": one or more event(s) causing an interruption or malfunction of the Client's Services.

"Infrastructure": all the physical and virtual elements that OVHcloud makes available to the Client as part of the Services (in particular, network, hardware and software).

"International Sanction(s)": the laws, regulations, embargoes and restrictive measures of the European Union, any of its members; the United Kingdom, the United States of America, the United Nations (including the governmental authorities of such states), and any other sanctioning authority, relating to economic or trade sanctions, export or trade controls, non-proliferation, counterterrorism and similar applicable laws, regulations, rules or requirements.

"NIC / Nichandle": one or more identification numbers assigned to the Client by OVHcloud. It is used for placing Orders, billing and technical management of Services.

"Order": the Client's subscription to Services. Renewal of Services is considered as a new Order.

"OVHcloud Elements": all elements included in the Services that are protected by intellectual property rights such as, for example, software, documentation and Infrastructure.

"Region": a physical location of the world comprised of one or several Datacenters where the Services are hosted. Regions are deployed in most areas of the world such as Europe, US, Canada and APAC and are all interconnected to the OVHcloud backbone network.

"Region 1-AZ": a Region with one Availability Zone redundant on power, network with a 2N+1 design spread across multiple Datacenters.

"Region 3-AZ ": a Region with three Availability Zones that are fully independent, providing resiliency with a low latency between the zones.

"Service(s)": services provided by OVHcloud under the Contract.

"SLA" or **"Service Level Agreement(s)":** commitment made by OVHcloud to the Client regarding certain performances of its Services detailed in the SC.

"Specific Conditions of Service" or **"SC":** the documents describing the Service(s), their conditions of performance and use, and the conditions applicable to Third-Party Products where applicable. They are published on the Website or available on request from Support.

"Support": OVHcloud service dedicated to Client assistance and management of Incidents.

"Test Service(s):" any phase of the development process of a Service or functionality, such as Alpha, Beta, etc., during which the Client is authorized, prior to its commercial launch to the general public, to use the Service or functionality in order to participate in its improvement and to observe any possible malfunctions.

"Third-Party Products": any product (operating system, license, application, firewall, hardware component, etc.) developed, owned or provided by a third party that OVHcloud makes available to the Client as part of the Services.

"Third-Party Product Conditions": contractual conditions specific to the use of Third-Party Products.

"User(s):" the Client and/or any person(s) authorized by the Client to access or use the Services under its responsibility, such as employees, consultants or third parties.

"Website": OVHcloud website accessible at the following URL https://www.ovhcloud.com/en-au/.

2. HOW TO ORDER SERVICES?

2.1 Client account. Client must have a valid Client Account to order Services. Client creates a Client Account on the Website by providing the necessary information (identity, contact details, e-mail address, bank details, etc.). All such information must be accurate and up to date throughout the duration of the Contract. If the Client Account is created and used by a person acting on behalf of the Client, this person represents and warrants to OVHcloud that he/she has the authority and capacity to do so and to bind the Client.

2.2 Verification and activation of the Client Account. Prior to activation of the Client Account and at any time during the term of the Contract, OVHcloud reserves the right to verify the accuracy of the information provided and to request supporting documents. OVHcloud may freely deactivate or refuse to activate the Client Account in the event of incomplete, erroneous or fraudulent information.

2.3 Orders. When the Client Account is activated, the Client may order Services from the Website, directly from the Control Panel, or by using, if possible, the APIs made available by OVHcloud. The Client is solely responsible

for the management of its Client Account and the associated authentication means (such as IDs, passwords, etc.). All Orders placed via the Client Account are deemed to have been placed by the Client. Such Orders constitute acceptance of the Contract by the Client. The conditions and timeframes for the provision of Service vary depending on the Service ordered. Some Services are made available only after OVHcloud has received payment from the Client. It is the Client's responsibility to ensure that the terms and conditions for the provision of the Services ordered comply with the Client's requirements.

2.4 Means of authentication. When the Client creates a Client Account, the Client obtains its initial login details. For security reasons, the Client must immediately change its password in accordance with industry-standard security criteria. For the entire duration of the Contract, the Client is responsible for defining and managing the means of authentication (including login details and those of Users) and for keeping them confidential. In the event of loss or disclosure of a means of authentication, the Client must, without delay: (a) take the steps available to secure its Client Account and Services (in particular, renew the means of authentication concerned); and (b) inform OVHcloud **! Warning !** The Client is responsible for the consequences of fraudulent use of its Client Account or Services using its means of authentication.

2.5 Closing a Client Account. Clients may send a request to close their Client Accounts by opening a ticket with Support through their Control Panel. The account will be closed once all Services associated with the Client Account have been terminated and paid for. In the event of non-use of a Client Account for more than twenty-four (24) months, OVHcloud may close the Client Account. In this case, the Client is notified by e-mail of the inactivity of its Client Account, and is invited to reconnect within thirty (30) days to maintain it. Failing to do so, the Client Account will be closed. It cannot be reactivated, and all associated data will be deleted. OVHcloud will only keep the information it is required to keep according to its Privacy policy in order to comply with its legal obligations and enforce its rights.

3. SERVICES

3.1 Information on the Services. Information on the Services and their features is available on the Website and from Support. This information may include (a) information concerning the different functionalities, configurations, options and ranges available, and (b) documentation, technical guides or examples of use of the Services to enable a better understanding and use of the Services. The conditions and characteristics of the Services change regularly, and it is the Client's responsibility to pay attention to these changes, including prior to any new Order. When OVHcloud offers Services that comply with recognised standards or regulations applicable to certain activities, OVHcloud indicates the conditions under which it complies.

3.2 Intellectual property. Rights of use. The Services and OVHcloud Elements are and remain the exclusive property of OVHcloud, or of third parties who have granted OVHcloud the right to use them under the Contract. OVHcloud grants the Client, on a non-exclusive basis, the right to use the Services and OVHcloud Elements for the sole needs of the Client's business and solely within the framework of their proper use. This right is granted for the duration of the Service subscription indicated in the corresponding Order. The Client is not authorized to decompile the software, codes and algorithms used as part of the Services (including Third-Party Products), in particular for the purposes of reverse engineering, nor to install them on infrastructures other than those provided by OVHcloud as part of the Services. The Client is not authorized to use the results obtained via the artificial intelligence Services for purposes other than those provided for in the Contract, and in particular to create a competing solution.

3.3 Connection. Using the Services requires a remote connection (Internet or private network), suitable and sized for the intended use of the Services. The Client is responsible for this connection and bears all related costs. The Internet is subject to technical hazards (notably unreliable connection lines, fluctuating bandwidth, interruptions) and security risks beyond the control of OVHcloud. OVHcloud is not responsible for these failures and their consequences, in particular when they lead to unavailability and/or discontinuity of the Services.

3.4 Maintenance. Unless otherwise specified, OVHcloud maintains the Infrastructures on which its Services are based, and updates and upgrades the operating systems and software made available to the Client as part of the Service.

3.5 Proper use of the Services. The Client undertakes to use the Services in accordance with the Contract and with the legal and regulatory provisions applicable to the Services and to the activities that the Client carries out with the Services, in the countries in which the Datacentres from which the Services are provided are located and in those in which the activities are carried out, transit or are used. The Client undertakes to use the Services in compliance with the technical limitations established by OVHcloud in order to prevent misuse. The Client will use the Services in a reasonable manner and will refrain from any act that could jeopardize the stability or security of OVHcloud's Infrastructures and systems, or lead to a degradation in the performance of services provided to other OVHcloud clients. In this respect, for certain Services, OVHcloud may collect metadata related to their use, such as, for example, data related to the use of the processor, memory, errors in logs. Any fraudulent or illegal use of the Services, such as sending fraudulent e-mails ("**SPAM**") from the Services, is strictly prohibited. The Client undertakes not to use any debriding process for the purpose of downloading large quantities of illicit Content on or from the Services. The Client will not carry out intrusion or attempted intrusion activities using the Services without the prior express written consent of OVHcloud. For clarification purposes, crypto-currency mining, denial-of-service attacks, video game bots, traffic exchanges (Hitleap, Jingling, etc.), and Black Hat SEO (Download, re-upload of videos on online video platforms, etc.) are strictly prohibited. As an exception, the Client may use consensus mechanisms such as ***Proof*** **of** ***Stake*** for the purpose of verifying transactions made on a blockchain, provided that such use is not abusive or fraudulent, does not jeopardize the stability or security of OVHcloud systems, does not generate any damage to the Infrastructures used by Client's Services, and does not degrade the performance of services provided to OVHcloud Clients.

3.6 Services Delivery. OVHcloud will deliver the Services to the Client within the period specified in the Order. If no timeframe is specified, it will be delivered thirty (30) days after OVHcloud validation of the Order. If the Services are not made available within the applicable timeframe, the Client may request cancellation of the Order by registered letter with acknowledgement of receipt or by creating a ticket in the Control Panel, specifying "Termination for non-delivery of the Services" in the subject line of the message. OVHcloud will reimburse the Client for the sums paid for these Services within fourteen (14) days of cancellation of the Order.

3.7 Suspension of Services. OVHcloud reserves the right to suspend all or part of the Services in the event of (a) a risk to the stability and/or security of OVHcloud's systems and environments, the Services and/or the Content, (b) a request from a competent administrative or judicial authority, (c) a notification from a third party in accordance with applicable laws, (d) non-compliance with all or part of the Contract, or (e) planned maintenance. Such suspension may take place immediately and without notice in the event of an emergency, and in particular in the cases described in points (a), (b) and (c) above, as well as in the event of illicit or fraudulent use of the Services, or use made in violation of the rights of a third party, and more generally, any use on the basis of which OVHcloud's liability would be called into question. Insofar as possible, and subject to judicial and administrative requisitions and non-compliance with the Contract, OVHcloud will attempt to limit the impact of the suspension on the normal operation of the Services. These suspensions do not relieve the Client of its obligation to pay all amounts due to OVHcloud under the Contract, without prejudice to the possibility for the Client to engage the responsibility of OVHcloud under the conditions of the article "Liability" below if these suspensions result from a breach by OVHcloud of its obligations. If the suspension results from a breach by the Client of its obligations, this suspension is without prejudice to OVHcloud's right to terminate the Contract in accordance with article 12.3 "Termination for breach" and to claim compensation for the damage suffered. Except in the case of termination or non-renewal of Services, suspension of Services does not result in the deletion of Client data.

3.8 Third-Party Products. The Services may include Third-Party Products. The Client uses Third-Party Products under its sole responsibility, in compliance with the provisions of the Contract and ensures that they are suitable

for its needs and the purposes for which they are used. Except for commitments concerning intellectual property (Article 3.2) and specific commitments that may be made in the applicable SC, OVHcloud is not responsible for Third-Party Products and gives no guarantees concerning them. They may contain, for example, technical errors, security flaws, incompatibilities or instabilities. If Client installs on the Services Third-Party Products previously acquired independently of OVHcloud, OVHcloud will share the Client's identity with the publisher of these Third-Party Products to ensure compliance with the Third-Party Product Terms and Conditions. Third-Party Products are subject to the Third-Party Product Conditions, which may change at any time, including those set out below[1] .

3.9 Penetration tests. The Client may carry out penetration tests on the non-mutualized Services (the "**Penetration Test(s)**") under the conditions set out below. The Penetration Test(s) may be carried out by the Client or by a third party appointed by the Client, who is then responsible for carrying out the Penetration Test(s). In this case, the Client must ensure that the third-party accepts and complies with the conditions of this article and those of Article 13 (Confidentiality). The Client must obtain prior authorization from the Users of the perimeter targeted by the Penetration Test and inform them of its potential impact (notably unavailability of the Service and loss of data). The Client is solely responsible for the consequences of Penetration Tests on Services and Content. Penetration Tests must exclusively conducted on the Services used by the Client, and must not: (a) target elements and Infrastructures other than those used exclusively by the Client (in particular OVHcloud's Infrastructures, networks and shared services); (b) disrupt the proper operation of the Services, OVHcloud's Infrastructures and networks or have any impact whatsoever on Services provided to other Clients. Security measures on the Services remain active and may result in the Services being unavailable. At the end of an Penetration Test, a written audit report must be sent to OVHcloud (i) at its request, or (ii) if the Penetration Test has detected flaws or vulnerabilities. All information disclosed or collected as part of the Penetration Test (including the audit report) and concerning OVHcloud, is considered confidential within the meaning of Article 13 (Confidentiality).

3.10. Test Services. OVHcloud may offer services or new features in the form of Test Services, free of charge or for a fee. The Test Services are described on the Website and OVHcloud Labs and/or the Order. Unless otherwise indicated in the Order, the Test Services are subscribed for a period of one month, renewing automatically for the same duration and are invoiced monthly in advance. The Client shall provide feedback on the use of the Test Service. These comments may be used freely by OVHcloud and its Affiliates without compensation or commitment to the Client or any of the Users. The Client understands the implications (access to the Test Service at OVHcloud's sole discretion, limited or incomplete service, limited support, lack of certification, etc.) and undertakes to bear the risks (specific environment, instability, malfunctions, unavailability, loss or alteration of data, etc.) resulting from the use of a Test Service. OVHcloud does not offer any express, implicit or legal guarantee as to the level of availability, accessibility, security, availability, stability, reliability, marketing or continuity of the Test Service or the storage, migration, backup or protection of the Content stored on it. The SLAs and service level objectives indicated in the SC are not applicable to Test Services and OVHcloud warns the Client against storing Content on the Test Service that is vital or essential to its business. The Client also undertakes not to store on the Test Service any Content that includes (a) personal data or (b) is subject to legal or regulatory compliance requirements. At the end of the Test Service, for whatever reason, OVHcloud will delete all Content stored by the Client on the Test Service. OVHcloud may restrict, suspend, modify or terminate the Test Service at any time without notice or compensation, in particular the Client uses the Test Services for an activity that does not comply with the Contract or with the purposes of the test carried out as part of the Test

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[1] Windows: https://storage.gra.cloud.ovh.net/v1/AUTH_325716a587c64897acbef9a4a4726e38/contracts/93af107-EULA_MCSFT_VPS_PCI-ALL-1.0.pdf
VMware:https://storage.gra.cloud.ovh.net/v1/AUTH_325716a587c64897acbef9a4a4726e38/contracts/3a078a1-EULA_VMware-FR-1.0.pdf
Veeam : https://www.veeam.com/eula.html
cPanel: https://cpanel.net/noc-agreements/

Service. Finally, to the extent permitted by law, OVHcloud shall not be held liable for any damage resulting from the use of the Test Services.

3.11 Subcontracting. Subject to the legal and contractual provisions applicable in matters of privacy and personal information, OVHcloud is authorized to subcontract all or part of the Services to its Affiliates. OVHcloud may freely use third-party suppliers in the performance of the Contract, without having to inform the Client or seek its prior consent. However, unless otherwise stipulated in the SC in force or specifically agreed by the Client, no Service involving access to Content stored by the Client as part of the Services is subcontracted outside of OVHcloud and its Affiliates. OVHcloud remains responsible for the subcontractors it uses in the performance of the Contract.

4. OVHCLOUD COMMITMENTS AND SLA

4.1 OVHcloud commitments. OVHcloud undertakes to exercise reasonable care and diligence in providing the Services, in accordance with the characteristics, terms and SLAs set forth in the Contract. OVHcloud shall use commercially reasonable efforts to perform its obligations, except with respect to the SLAs for which OVHcloud is under an obligation of result. The Client may also have statutory rights granted by the Competition and Consumer Act 2010 (Cth) (as amended) and other statutes from time to time in force which these GTS do not affect.

4.2 SLA. For certain Services, OVHcloud provides SLAs, details of which are set out in the applicable SC. When these SLAs are not met, the Client may benefit from the Service Credits indicated in the SC. To benefit from these, the Client must (i) declare the Incident and communicate all information useful to OVHcloud's diagnosis and intervention, (ii) collaborate with OVHcloud to restore the Service, (iii) remain permanently available to respond to any request for additional information and carry out the necessary tests and verifications, (iv) if necessary, give OVHcloud access to its Control Panel, and (v) formulate its request for the application of Service Credits in its Control Panel at the latest within thirty (30) days following the observation of the Incident by OVHcloud. If OVHcloud observes an Incident for which it is responsible, it will finalize the diagnosis and work with the Client to restore availability.

4.3 Service credits. Service Credits are detailed in the SC. Under no circumstances may they be reimbursed to the Client in cash, and their total monthly accumulation may not exceed the monthly price of the Services paid by the Client for the affected Services. No Service Credit will be granted if the Client has not paid all invoices due for the Services. If the same event results in a breach of several SLAs, Service Credits cannot be accumulated. The Service Credit most favorable to the Client will be applied. Service Credits constitute a lump-sum compensation for all damages resulting from OVHcloud's failure to comply with the corresponding SLAs. They represent the Client's sole and exclusive remedy for all damages, losses, liabilities, costs and expenses resulting from OVHcloud's failure to comply with the relevant SLA. The Client hereby waives all other claims, demands and/or actions.

The Client shall not be entitled to Service Credits where the breach of SLA results in whole or in part:

(i) events or factors beyond the control of OVHcloud such as, but not limited to, force majeure, acts of third parties, Internet connection problems, Internet network malfunctions, malfunctions or misuse of hardware, software, applications, modifications made by the Client to the Services affecting OVHcloud's ability to manage or restore the Services and other elements under the Client's control (in particular software applications running on the Services);

(ii) a breach by the Client of its obligations under the Contract (in particular a failure to cooperate in resolving the incident);

(iii) misuse or inappropriate use of the Services by the Client and/or its Users (in particular misuse of the Control Panel , etc.);

(iv) planned maintenance;

(v) an interruption occurring in accordance with the GTS (in particular a suspension of Services by OVHcloud in accordance with Article 3.7) or ;

(vi) hacking or computer piracy.

In such cases, and with the exception of point (iv), OVHcloud reserves the right to invoice the Client for the work carried out to restore the Service. This will be the subject of a quotation submitted to the Client for validation. The causes of the Incident and the observation of the cases of exclusion listed above may be established by OVHcloud by any means, and in particular on the basis of elements of its information system (such as connection data) which, by express agreement, will be admissible.

5. EVOLUTION OF THE SERVICES

5.1 Lifecycle. In order to better respond to market demands, OVHcloud regularly updates its catalog of Services. Services follow a life cycle based on the following indicative stages:

- **"General Availability"**: date on which a Service, a new version or a new range of a Service is made available in one or more Datacenters (excluding Test Service).
- **"End of Commercialization"**: date on which the commercialization of a Service, or a version or range of a Service, is interrupted. The Client can no longer order a new Service, options, additional services or new Services in this version or range.
- **"End of Support"**: date on which a Service, or a version or range of a Service, is no longer supported by OVHcloud. The associated SLAs and Credits are no longer applicable, and updates and upgrades are no longer provided.
- **"End of Life"**: date on which a Service, or a version or range of a Service, ends.

5.2 Evolution of Services after their delivery. In this context of evolution, OVHcloud may modify the Services at any time. OVHcloud informs the Client of any Evolution likely to degrade its Services or of any withdrawal and definitive termination of its Services. This information is communicated at least thirty (30) days before the effective date of implementation of the Evolution, by e-mail and/or via the Control Panel. The Client may terminate the affected Service within thirty (30) days, or four (4) months for Consumers, of receiving this information. If no action is taken by the Client within this period, the Evolution is deemed to have been accepted by the Client.

As an exception, certain Evolutions can take effect immediately in the following cases:

(a) Urgent Evolutions required by safety risks or legislative developments; and

(b) modification of Third-Party Products.

In the event of definitive termination of a Service, this Service will be automatically terminated upon expiry of the notice period communicated by OVHcloud. OVHcloud will refund any overpayment on a pro rata basis. As of the effective date of termination of the affected Service, the Client will no longer have access to it.

6. CONTENT

6.1 Ownership. The Content is the property of the Client, Users or third parties who have granted the right to use it.

6.2 Content management.

6.2.1 Lawfulness. The Client must use lawful Content as part of the Services and use it in compliance with applicable laws and regulations. In this respect, the Client must obtain, at its own expense, authorizations, licenses or rights to use the Content. The following are prohibited:

- Any use of illicit Content (e.g. distribution, publication, storage or transmission of Content containing child pornography, advocating or inciting the commission of crimes against humanity, acts of terrorism, paedophilia, anti-Semitism, racism or others, or Content inciting hatred against persons on the grounds of their sex, religion, sexual orientation or identity, or disability);

- Any illicit or abusive use of Content (e.g. fraudulent use of Content or use of Content in violation of third-party rights such as personality rights, copyrights, patents or trademarks or other intellectual property rights).

6.2.2 Control. OVHcloud does not exercise prior control over the Content and has no knowledge of it. OVHcloud does not intervene in the management of the Content, nor does it validate or update the Content. The Client has knowledge of and control over the Content. The Client alone knows the type of Content (sensitive, public, confidential, etc.), whether the Content contains personal data and of what type, and the criticality of the Content (vital importance, test data, production data, etc.).

6.2.3 Management and conservation of authorized Content. The Client is solely responsible for the Content as part of a Service, including its use, exploitation and updating.

6.2.4 Termination of Services.

The use of inappropriate or unauthorized Content from the Services constitutes a serious breach that may justify termination by OVHcloud of the affected Services or of the Contract in accordance with Article 7.

6.3 Backup and encryption of Content.

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 thus 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.

6.4 Recovery of Content. The Client is responsible for the recovery of Content. OVHcloud does not provide its clients with any specific means of recovering their Content, even prior to the expiration or termination of a Service. When the Client terminates a Service or when the Service comes to an end, the Client must take the necessary steps to recover the Content before it is automatically deleted. However, at the Client's request, OVHcloud may provide confidential technical information relating to the Service in order to facilitate Service reversibility and Content recovery operations. This assistance service is subject to a charge and to the signature of a specific confidentiality agreement. This service does not include any restitution, recovery or migration of Content.

6.5 Deletion of Content. Unless otherwise provided for in the applicable SC, automatic and irreversible deletion of all Content, including any backups thereof, occurs when:

(a) the Services are terminated for any reason whatsoever,

(b) certain operations to update and reinstall the Services are performed**.**

Prior to the expiry or termination date of the Services, and before proceeding with any deletion, update or reinstallation of Services, it is the Client's sole responsibility to carry out any operation (such as backup, transfer to a third-party solution, etc.) necessary to preserve its Content. OVHcloud undertakes, following termination of the Services, not to retain any copy of the Client's Content unless (i) otherwise agreed between the Parties, (ii) otherwise provided for by the applicable SC, or (iii) in the case of data that OVHcloud must retain in accordance with the regulations in force, data referred to in the Privacy Policy, and data necessary for the defence of its rights.

7. MANAGEMENT OF UNAUTHORIZED USE OF SERVICES

7.1 Fraudulent and unwanted e-mails. OVHcloud uses automatic tools that check traffic sent from the Services when it is destined for port 25 (corresponding to SMTP servers) on the Internet. The automatic tools (i) do not filter e-mails, (ii) do not intercept e-mails, (iii) do not mark e-mails (e-mails are not "tagged"), (iv) do not modify e-mails; and (v) do not store e-mails. Automatic tools check e-mails with a time lag of a few seconds, in parallel with the traffic. This ensures that service performance is not affected. Thanks to regular checks, automatic tools generate statistics. If OVHcloud suspects that fraudulent or unwanted e-mails are being sent from the Services, it may suspend e-mail transmission from the affected Service by blocking the server's SMTP port. Following a suspension, the Client must check the use made of the Service, as well as the security of its environment, in order

to remedy the situation permanently. After the first suspension, the Client may request that the e-mail function be reactivated from the Control Panel. From the third suspension onwards, OVHcloud may refuse to reactivate the e-mail functionality until the end of the Service. OVHcloud does not keep any copy of e-mails sent from the SMTP port of the Service, even when they are identified as SPAM.

7.2 Unauthorized use. The Client must take the necessary measures to stop any unauthorized use of the Services.

7.3 Suspension and termination. Use of the Services by the Client or a User in violation of this Contract shall constitute a breach of this Contract and OVHcloud may, as a result, at its sole discretion suspend or terminate the affected Services or the Contract.

8. MITIGATION (PROTECTION AGAINST BACK AND DDOS ATTACKS)

OVHcloud provides software functionality to protect Infrastructure Services against massive *Denial of Service* (or "**DoS"**) or *Distributed Denial of Service* (or "**DdoS"**) attacks. This type of attack consists of making services unavailable to legitimate users by sending a multitude of requests to the service in order to saturate its capacities. The Client is informed that such an attack may result in the unavailability of Services, or their degradation, even when the protection is activated. This protection is a software feature that monitors traffic coming from the Internet (networks outside OVHcloud network) and going to Infrastructure Services. If the software detects traffic that it considers illegitimate, this traffic is blocked upstream of the Services, in order to limit the effects of the attack, avoiding saturating their capacities and allowing the Services to process legitimate user requests. Protection is activated as soon as the attack is detected by the software monitoring tool, for an indefinite period. It is automatically deactivated when the tool no longer detects illegitimate traffic to the Services. Until the protection is activated, the Services targeted by the attack support the attack in its entirety. The protection functionality is complex due to the nature of such attacks.
This protection is partial, and:
a)   only comes into play for the attacks mentioned above, and not for other types of attack (such as SQL injection attacks, Bruteforce, exploitation of security vulnerabilities, etc.);
b)   is only activated if the attack is detected, which is not guaranteed;
c)   limits the impact of such an attack when enabled, but does not guarantee the absence of impact on Services (some malicious requests may reach Services), nor the accessibility of Services;
d)   depends on the Client's configuration and management of the Services, including the security measures the Client has put in place regarding the Services.

If the computer attack is of such a nature as to affect the integrity of the Infrastructures or other OVHcloud Clients despite the activation of the protection, OVHcloud will reinforce the protection measures. This reinforcement may lead to a degradation of the Services or affect their availability.

9. SUPPORT

9.1 What is the Support about? The Support team is responsible for handling Incidents encountered in connection with the Services and for providing the Client, on request, with information concerning the conditions and features of the Services. The Support is included in the price of the Services, subject to the other levels of Support available as indicated in article 9.4 below. Third-Party Products are not supported. Support is provided in English, and information concerning the Services are provided in business hours only. Infrastructure operation is monitored 365/24/7. In order to ensure the continuity of Incident management, OVHcloud reserves the right to subcontract to an Affiliate part of the Support service under the conditions set out in article 3.11 "Subcontracting".

9.2 Use of Support. The Client may usefully consult the resources and information available on the Website (user guides, examples of use, documentation, etc.) and in the Control Panel (reporting, monitoring, etc.) before contacting the Support. Support contact and intervention procedures are defined in the SC and on the Website. Clients can track the status and history of their requests and Incident declarations in their Control Panel. The

Client undertakes not to abuse Support. The Client undertakes not to (i) contact Support for services or products that it has not contracted directly with OVHcloud, or (ii) put Support teams in contact with its own clients or any other third party to the Contract. OVHcloud reserves the right to refuse to accept requests that do not comply with the Contract and to terminate it immediately. The Client undertakes to adopt appropriate, cordial and respectful conduct in its dealings with Support. OVHcloud reserves the right to no longer respond to Client requests and to immediately terminate the Contract in the event of abusive, outrageous or degrading behavior. The Client may be sued for such behaviour. In this context, OVHcloud may use any means of proof it deems useful and appropriate (extracts from communications with the Client, screenshots, e-mails, telecommunications recordings, etc.).

9.3 Incident management. In the event of a malfunction of the Services, the Client shall first carry out the technical tests recommended on the Website. If these tests do not enable the Incident to be resolved, the Client declares the Incident to Support, providing all the information required for proper diagnosis. If an Incident is declared, the Support will carry out investigations to identify the cause and establish a diagnosis. The Client undertakes to remain permanently available to collaborate with OVHcloud in the diagnosis and resolution of the Incident, including by providing any additional information, and by carrying out any necessary tests and verifications. In order to manage Incidents, the Client expressly authorizes OVHcloud and its Affiliates to connect to its Services, both hardware and software, and to perform any operation necessary to handle the Incident. This may require intervention by the Client. OVHcloud undertakes to keep the Client informed of the progress of operations. OVHcloud establishes the diagnosis by any means. OVHcloud gives no guarantee of intervention time or resolution of Incidents within the framework of Support. If OVHcloud finds that the Services are available and in good working order, that the existence of the Incident cannot be confirmed, or that the Incident is not OVHcloud's responsibility, OVHcloud will inform the Client. In this case, the time spent by OVHcloud to carry out the diagnosis and assist the Client may be invoiced as additional services on a flat-rate basis at the rate consultable on the Website and reiterated when the Incident is declared. OVHcloud reserves the right to refuse to take charge of Incidents if the Client uses the Service in violation of the Contract or of the laws or regulations in force.

9.4 Other levels of Support. In addition to the Support described above, OVHcloud offers other levels of Support enabling the Client to benefit from additional services and levels of commitment. These Support levels are described in the corresponding SC and documentation, available on the Website or on request from Support.

9.5 Consumer complaints. Any complaint relating to the Services may be addressed to:

OVH AUSTRALIA PTY LTD - Customer Service – Level 12, 90 Arthur Street North Sydney NSW 2060. OVHcloud provides the Consumer with a complaint form through the Control Panel. The Consumer may also contact Client Service by telephone on 1007 from 8am to 6pm, Monday to Friday.

10. LIABILITY

10.1 Authority. Each Party represents and warrants that it has the authority and capacity necessary to enter into the Contract and to perform its obligations.

10.2 Liability of OVHcloud. OVHCLOUD (INCLUDING ITS AFFILIATES AND ANY SUBCONTRACTORS) MAY ONLY BE HELD LIABLE IN THE EVENT OF PROVEN FAULT OR NEGLIGENCE CAUSING DIRECT DAMAGE TO THE CLIENT, TO THE EXCLUSION OF ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGE OF ANY NATURE WHATSOEVER, AND IN ACCORDANCE WITH THE LIMITATIONS AND EXCLUSIONS SET OUT BELOW. OVHCLOUD DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES.

10.3 Limitations of liability. IF THE SC INCLUDE SLAS, THE CORRESPONDING SERVICE CREDITS CONSTITUTE THE CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR OVHCLOUD'S FAILURE TO COMPLY WITH SAID SLAS AND OVHCLOUD'S ENTIRE LIABILITY FOR FAILING TO MEET THESE SLAS. IN THE ABSENCE OF AN APPLICABLE SLA, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF OVHCLOUD (INCLUDING ITS AFFILIATES, SUBCONTRACTORS AND PROVIDERS) TO THE CLIENT FOR ALL

COMBINED CLAIMS ARISING OUT THIS CONTRACT, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, EXCEED PER PERIOD OF TWELVE (12) CONSECUTIVE MONTHS AND PER ORDER, (I) THE TOTAL AMOUNT OF SUMS PAID BY THE CLIENT TO OVHCLOUD FOR THE IMPACTED SERVICES OVER THE COURSE OF THE SIX (6) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM OR (II) THE DIRECT DAMAGES SUFFERED BY THE CLIENT IF SUCH DAMAGES ARE LOWER. HOWEVER, THIS LIMITATION DOES NOT APPLY (I) IN THE EVENT OF DEATH OR BODILY INJURY, AND/OR (II) IN THE EVENT OF FRAUD OR GROSS NEGLIGENCE OR FRAUDULENT MISREPRESENTATION.

10.4 Exclusions. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT OVHCLOUD SHALL BE RESPONSIBLE FOR:

i) ANY ACT OR OMISSION OF A THIRD PARTY BEYOND THE REASONABLE CONTROL OF OVHCLOUD;

ii) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF ORDERS, PROFITS, GOODWILL OR DAMAGE TO IMAGE) ARISING OUT OF OR RELATING TO THIS CONTRACT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, NEGLIGENCE, STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT OVHCLOUD HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE;

iii) THE RESTITUTION OF DATA AND DAMAGE RESULTING FROM THE LOSS OR ALTERATION OF ALL OR PART OF THE CONTENT TO THE EXTENT THAT OVHCLOUD IS RESPONSIBLE ONLY FOR THE AVAILABILITY OF STORAGE OR BACKUP SPACES IN ACCORDANCE WITH THE APPLICABLE SLA;

iv) ILLICIT CONTENT USED OR EXPLOITED BY THE CLIENT AND/OR ITS USERS FROM THE SERVICES;

v) THE LOSS, DISCLOSURE OR FRAUDULENT OR ILLICIT USE OF THE MEANS OF AUTHENTICATION USED TO ACCESS THE CLIENT ACCOUNT OR THE SERVICES;

vi) USE OF THE SERVICES BY THE CLIENT OR A USER IN A WAY THAT DOES NOT COMPLY WITH THE CONTRACT OR THE TECHNICAL DOCUMENTATION;

vii) THE DETERIORATION OF SYSTEMS, APPLICATIONS AND OTHER ELEMENTS INSTALLED BY THE CLIENT OR ITS USERS ON THE INFRASTRUCTURE;

viii) THE UNSUITABILITY OF THE SERVICES FOR THE CLIENT'S NEEDS, PARTICULARLY WITH REGARD TO THE SENSITIVITY OF THE CONTENT;

ix) SECURITY INCIDENTS RELATED TO THE USE OF THE INTERNET BY THE CLIENT AND/OR ITS USERS, IN PARTICULAR IN THE EVENT OF LOSS, ALTERATION, DESTRUCTION, DISCLOSURE OR UNAUTHORIZED ACCESS TO CLIENT DATA OR INFORMATION ON OR FROM THE INTERNET;

x) THE TEMPORARY OR DEFINITIVE SUSPENSION OF SERVICES IN ACCORDANCE WITH ARTICLE 3.7.

10.5 The provisions of Article 10 allocate the risks between OVHcloud and the Client. The price of the Services reflects this allocation and the limitations of liability.

10.6 Client's responsibility. The Client assumes all risks associated with its activities and is solely responsible for the use of the Services in compliance with the Contract, including when the Services made available to the Client are used by or on behalf of third parties, in particular Users. If the Client uses the Services on behalf of third parties, or authorizes third parties to use the Services, the Client undertakes, prior to their use, to communicate to them and have them validate the contractual conditions of OVHcloud and Third-Party Products Conditions applicable to these Services. The Client guarantees to OVHcloud the compliance with these conditions.

The Client is responsible for:

a) reading the documentation and taking note of the ranges, options and configurations available on the Website in order to select those that it considers most suitable;

b) verifying that its technical and operational requirements (or those of the third party on whose behalf the Services are to be used) are in line with the Services;

c) ensuring that the intended use of the Service and Third-Party Products complies with the laws applicable to the activities carried out in connection with the use of the Service and Third-Party Products, including export control laws and/or laws specific to your business.

The Services do not constitute a guarantee of continuity of services, nor a guarantee of protection and conservation of Client's data. Client remains solely responsible, particularly in the case of hosting sensitive content and/or data and/or data necessary for the continuation of its business, the backup of its data, the implementation and management of a business continuity and/or recovery plan, and more generally for all

technical and organizational measures enabling the Client to continue its business in the event of a major malfunction of the Services likely to impact the continuity of its business and the availability and integrity of its Content and data. Subscription to a backup service does not relieve the Client of its responsibility to implement such plans.

The Client declares that it has the necessary technical skills and knowledge and that it is familiar with the characteristics of the Services.

The Client is responsible for (a) the Content, (b) its management and use (in particular its control, validation, updating, deletion, backup, as well as any measure of a nature to protect it against the loss and alteration of Content), including when it belongs to third parties or is used or exploited by or on behalf of third parties, and (c) compliance with the laws and regulations in force.

If the Client uses the Services as part of a professional activity, or when acting on behalf of a third party, the Client shall subscribe and maintain, for the entire duration of the Contract, a third-party insurance policy from a AAA insurance company covering all damages that may be incurred by Client.

10.7 Warranties. The Client guarantees OVHcloud against all consequences, in particular all claims or legal actions by a third party, resulting from (a) the use or exploitation of illicit Content as part of the Services, (b) fraudulent use of the Services or use that does not comply with the laws and regulations in force, (c) use of the Services and Third-Party Products in violation of the rights of third parties (including the intellectual property rights of third parties), (d) the lack of suitability of the Services selected to the needs of Client or the needs of third parties, (e) the loss or unauthorized or fraudulent use of Users' means of authentication and (f) third party data loss. The Client will take appropriate actions in all requests, claims and/or actions by third parties involving the Content and/or the provisions of the Contract, including administrative and judicial authorities.

As such, the Client will indemnify and hold harmless OVHcloud against all resulting damages, losses and expenses, and will bear all reasonable legal costs (reasonable attorney's fees, bailiff's fees, etc.), as well as any damages awarded to a third party by settlement or binding decision against OVHcloud. The Client will not agree to any settlement of any such claim or action without the prior written consent of OVHcloud.

The Client is solely responsible for the relationship with third parties, in particular the Users, and guarantees OVHcloud against all requests, claims and/or actions by third parties involving the Services. The Client undertakes to notify OVHcloud in writing as soon as possible of any requests, claims and/or actions by third parties involving the Services, specifying the subject matter of the request as well as any useful information so that OVHcloud can communicate to the Client the elements in its possession which may be appropriate.

If the claim or action is based on a breach by OVHcloud, the Client may engage the liability of OVHcloud under the conditions set out in Article 10 "Liability".

10.8 Force Majeure. Neither Party shall be liable for non-performance of its obligations - except for the payment of the Services - if such non-performance results directly or indirectly from an act or event which occurs and is beyond the affected Party's reasonable control, such as acts of God, war or threat of war, unrest, sabotage, acts pf terrorism, strikes, action of a governmental entity, weather, quarantine, fire, flood, earthquake, explosion, utility or telecommunications outages, Internet disturbance, epidemic, pandemic or any unforeseen change in circumstances, or any other causes beyond our reasonable control of the affected party, , . The affected Party shall (i) use commercially reasonable efforts to limit the effects of the event; (ii) continue performance of obligations not affected by the event; (iii) inform the other Party in writing as soon as possible of the existence, circumstances, impact on the Services and estimated duration of such event or its effects; and (iv) keep the other Party regularly informed of developments after the initial information.

If the event of force majeure continues for more than thirty (30) consecutive days, either Party may terminate the affected Services.

11. FINANCIAL CONDITIONS

11.1 Prices of Services. The prices of the Services ordered are those in force on the Website at the time the Order is placed. Unless otherwise stipulated, the prices are in Australian dollars (AUD). By way of exception, the Parties

may agree on the price of Services by means of an OVHcloud quotation, which will constitute the Order once signed by the Client. When prices are stated exclusive of tax (in particular for Services for professionals), VAT and any other tax applicable to the Services (excluding taxes on OVHcloud's income) will be added to the price of the Services and will be due without this being considered as a price change. Except in the case of special pricing, the price of the Services includes the cost of acquiring the licenses and rights to use the tools, software and operating systems used by OVHcloud and/or, where applicable, made available to the Client by OVHcloud as part of the Services. It is the Client's responsibility to acquire and pay for the licenses and rights of use required to use the Content. For more details on how the prices of the Services are calculated, the Client may refer to the Website and to the applicable SC. The intervention of an expert or the provision of reports concerning the Services are invoiced in addition at the rates in force.

11.2 Price changes. OVHcloud may change the prices of the Services at any time. For all new Orders, price changes are applicable immediately. For Services in use at the time of the price increase and subscribed without a Commitment Period, or increases in power, electronic components or Third-Party Products costs, the price may be modified by OVHcloud after informing the Client by e-mail at least thirty (30) days before the modification takes effect. In this case, the Client will have a period of thirty (30) calendar days, or four (4) months for Consumers, to cancel the Services and Third-Party Products concerned, without penalty, by registered mail with acknowledgement of receipt or by using the means provided in the Control Panel. After this period, the new prices will apply to the Client. This termination right is not applicable in case of price increase due to unpredictable circumstances making the execution excessively expensive for OVHcloud, which had not agreed to assume the risk.

11.3 Invoicing. The Services are invoiced according to the Client's consumption and Orders as recorded by OVHcloud in its information system. The periodicity (monthly, annual, or other) and timing of invoicing (upfront or in arrears) varies from one Service to another. Invoicing conditions are defined on the Website and in the SC of the Services concerned. The Client agrees that invoices will be sent in electronic form by e-mail and/or deposited in its Control Panel, where they will be available for twelve (12) months following their issuance. It is the Client's responsibility to keep a copy of invoices in accordance with current regulations.

11.4 Payment. Invoices are payable upon receipt. The Client must select one of the available payment methods published on the Website. For Services payable in arrears, OVHcloud may invoice before the end of the current calendar month, if the Services consumed during the month reach a significant total amount. It is the Client's responsibility to pay the total amount of its invoices, which implies registering a valid means of payment in the Client Account and having the necessary funds to pay for the Services throughout the duration of the Contract. For "pay as you go" Services, each unit of work started is invoiced and due in full, even if not fully used. The Client must pay the price of the Services in full. No refund will be made in the event of non-use, partial use, suspension, or cessation of use of the Services before the end of the period of use subscribed to in the Order. Consequently, and subject to consumer rights:

(i) in the case of split payments (monthly, annual or other), the total amount of the Services will remain due in full and will be invoiced to the Client until the end of the corresponding period, and

(ii) in the case of Service(s) subscribed with a Commitment Period, the total amount of the Services will remain due in full and will be invoiced to the Client until the end of the Commitment Period.

As an exception to the above, the Client will be reimbursed if the Services have not been delivered.

11.5 Default and late payment. In case of default or late payment, including partial payment, OVHcloud may charge the Client late payment penalties equal to 2% calculated monthly (26.82% per year) from the day following the payment due date. Furthermore, as a result of such default or late payment persisting for more than (4) calendar days after notification sent to the Client by email, without requiring any additional notification or formal notice, (a) all of sums remaining due by the Client under the Contract shall become due regardless of their payment terms, and (b) OVHcloud shall have the right, immediately without prior notice, to suspend and

all or part of the Client Services (including those which have been paid for), to refuse any new Order or renewal of Services and to terminate all or part of the Contract. In case of default or late payment, business Clients shall also be liable to pay a fixed recovery fee of 66 (sixty-six) AUD, without prejudice to OVHcloud's right to demand, upon supporting documents, additional compensation in cases where the recovery fees are greater than the amount of said fixed recovery fee.

11.6 Disputes.   Any disagreement concerning invoices must be notified to OVHcloud's Client Service, via the Control Panel, within three (3) months after the invoice has been issued. Failing this, the Client is obliged to pay any unpaid invoices in accordance with the terms of the Contract. In the event of non-issuance of invoices, OVHcloud is authorized to settle said invoices within the limits of the statute of limitations in force.

12. DURATION, RENEWAL AND TERMINATION OF SERVICES

12.1 Duration of Services. The Contract remains in force for as long as the Client uses the Services or an Order is in progress. The initial duration of the Services is specified in the Order and may include a Commitment Period. The Client will inform OVHcloud of its decision not to renew the Services by using the means provided in the Control Panel or by contacting the Support. Confirmation from the Client may be required in order to give effect to its request not to renew the Services.

12.2 Renewal of Services. The terms of renewal of the Services are defined in the Orders or in the SC for each Service. Renewals are automatic ("**Auto-renew"**) or subject to prior payment.

12.2.1 Automatic renewal. Auto-renewal is activated by default for certain Services. In the case of Auto-renew, it is the Client's responsibility to select the renewal method of its choice on the Control Panel, and in particular the initial term applicable. The Client may change the duration of future renewal periods at the latest twenty-four (24) hours before the end of the initial or current renewal period. If the initial period starts during the month, the Service renewal cycle is realigned to a calendar cycle at the time of the first renewal, so that subsequent renewal periods begin on the first (1st) of the calendar month. If the Client does not wish a Service to be automatically renewed, the Client must deactivate the Auto-renew function in its Control Panel as follows: (a) for Services with a monthly renewal cycle, before the nineteenth (19th) of the month at twenty-three p.m. (23:00) Paris time at the latest; (b) for Services with a non-monthly renewal cycle (quarterly, half-yearly, annual, etc.), before the nineteenth (19th) of the month at the latest; (c) for Services with a monthly renewal cycle (quarterly, half-yearly, annual, etc.), before the nineteenth (19th) day of the calendar month preceding its renewal date, no later than twenty-three p.m. (23h00) Paris time. If Auto-renew is deactivated under the above conditions, OVHcloud may terminate the Service concerned at the end of the current initial or renewal period unless Client reactivates the Auto-renew function a the latest twenty-four (24) hours before its expiry date or pays in advance the next renewal period.

12.2.2 Renewals subject to prior payment. Renewals subject to prior payment will be automatically rejected in the event of non-payment or irregular payment (in particular, incorrect amount, incomplete payment, or payment without the required references, or payment made by a means or procedure not accepted by OVHcloud).

12.2.3 Non-renewal in the event of end-of-life or discontinued Services. OVHcloud may terminate any renewal with reasonable notice, including if the Services have reached the end of their useful life or are discontinued by OVHcloud.

12.3 Termination for breach. In the event of a breach by one of the Parties (the "**Defaulting Party"**) of its obligations, and in particular in the event of non-compliance with Article 3 "Services", Article 6 "Content" and/or Article 11 "Financial Conditions" of the GTS, which is not remedied after seven (7) calendar days from receipt of a registered letter with acknowledgement of receipt detailing the breaches, the other Party may terminate the affected Services and Orders. Such termination shall be notified to the Defaulting Party by registered letter with acknowledgement of receipt. However, in the event of malicious, illicit or fraudulent use of the Services, or use made in violation of the rights of a third party, OVHcloud may terminate the relevant Services or the Contract in

its entirety, with immediate effect, by e-mail and without prior formal notice. This does not affect OVHcloud's right to suspend or interrupt the Services under the conditions set out in the Contract, in particular in the event of non-compliance with the provisions of the Contract. Termination for breach is without prejudice to any damages that may be claimed from the Defaulting Party.

13. CONFIDENTIALITY

13.1 Commitments. Each of the Parties undertakes, with regard to the other Party's confidential information disclosed to it or to which it has access under the Contract: (a) to use such confidential information solely for the purposes of performing the Contract, (b) to preserve the confidentiality of such information with the same degree of care as if it were its own confidential information, and (c) to provide access to such confidential information only to those of its employees and Affiliates who have a need to know such information in view of their function, and on condition that such recipients are informed in advance of the confidential nature of the information, and that they are bound by a confidentiality agreement at least equivalent to these provisions. Each Party may communicate the other Party's confidential information to its advisors if they belong to a regulated profession subject to professional secrecy (such as lawyers, certified accountants or statutory auditors). Each Party shall refrain from disclosing the other Party's confidential information to other persons without the prior written consent of the other Party and shall ensure that the confidentiality of such information is respected by all persons to whom it discloses such information. Confidential information includes the terms and conditions of the Contract and all information communicated between the Parties, or to which the Parties have access in the performance of the Contract, in whatever form and nature (including financial and marketing information, trade secrets, know-how, information relating to security and the conditions of use of the Services). For information to be considered confidential, it is not necessary for its confidential nature to be mentioned on the document or other media containing said information or indicated upon its disclosure. Each of the Parties undertakes to comply with this confidentiality obligation throughout the term of the Contract and for a period of two (2) years from its termination, for whatever reason.

13.2 Exceptions. The confidentiality commitments do not apply to information which the receiving Party can demonstrate (a) was legitimately known to the receiving Party, without being obliged to keep it confidential, before the other Party communicated it to the receiving Party or gave the receiving Party access to it, (b) is in the public domain without the receiving Party (or the persons for whom it is responsible) breaching its obligation of confidentiality, (c) the information has been communicated to the receiving Party by a third party in a legitimate manner and with authorization to disclose it, (d) the information resulted from developments carried out by the receiving Party receiving and/or by its employees, independently of the Contract, or (e) the disclosure of the information has been authorized by the other Party. OVHcloud may share information regarding the Client's volume of Services with the partner having referred the Client to OVHcloud. Either Party may disclose confidential information received from the other Party in order to defend its rights in a legal action against the other Party. In this case, the information will be kept for the legal time required to prove the case and may only be disclosed to persons who need to know it in the context of the action or proceedings in question (judges, counsels, etc.), who are bound by professional secrecy or, failing this, by a confidentiality agreement. Each Party may also disclose confidential information received from the other Party at the request of a competent administrative or judicial authority, on condition that it informs the other Party in advance, subject to any legal provision or injunction to the contrary, and that it discloses only such confidential information as is strictly necessary to comply with such request.

14. GENERAL PROVISIONS

14.1 Governing law and jurisdiction. The Contract is governed by- and construed in accordance with the laws of New South Wales, without giving effect to principles of conflict of laws that would require the application of any other law. The Parties shall use their reasonable efforts to resolve any dispute arising between them amicably. The most diligent Party will notify the other Party of the existence and reasons for the dispute by registered letter with acknowledgement of receipt. If no amicable agreement is reached within thirty (30) days

of this notification, the Parties irrevocably agree to submit the dispute to the exclusive jurisdiction of the courts having judicial district of New South Wales where the Parties elect domicile, even in the event of multiple defendants, third-party appeals or summary proceedings.

14.2 Statute of limitations. Notwithstanding the statutory limitation periods, the Parties expressly agree that the Client may not bring any action against OVHcloud after a period of two (2) years following the date on which the Client becomes aware of the damage.

14.3 International Sanctions and Export Control.

The Client undertakes to comply at all times with International Sanctions and Export Control regulations.

The Client represents and warrants that :

a) It is not designated, targeted, or subject to an International Sanction;

b) It is not owned or controlled by, and is not acting for or on behalf of, a natural or legal person designated, targeted, or subject to an International Sanction;

c) the Services will not be used, sold, exported, diverted or transferred in any way whatsoever to a person or entity located in countries or regions subject to International Sanctions or trade embargoes. The same applies to any government of any country or region, or of any person or entity that is otherwise targeted by International Sanctions, or of any person or entity that is directly or indirectly involved in acts of terrorism, or in connection with weapons of mass destruction or missile applications;

d) It does not use, deal in, sell, supply, transfer or export, or negotiate the use, sale, supply, transfer or export of goods, services, software or technology subject to International Sanction or Export Control restrictions.

The Client must immediately inform OVHcloud if any of these elements cease to be accurate.

OVHcloud is not obliged to perform its obligations under the Contract if this contravenes applicable rules or expose OVHcloud to the risk of coercive action, punitive, restrictive or adverse measures under International Sanctions or Export Controls. OVHcloud may also, at its discretion, terminate all or part of the Contract with immediate effect, by informing the Client in writing.

14.4 Severability. If any clause of the Contract is declared unenforceable pursuant to a final court decision, such clause shall be deemed unwritten, without affecting the validity of the other clauses of the Contract. The Parties shall, as far as possible, replace the unenforceable clause with another clause that corresponds to the intent and purpose of the Contract.

14.5 Third parties. OVHcloud makes no commitments to third parties, including Users, and no stipulation of the Contract may be interpreted as creating third party beneficiaries of the Contract (including but not limited to under the Contracts (Rights of Third Parties) Act 1999). The Client is the only Party having a contractual relationship with Users and is responsible for the relationship it maintains with them.

14.6 Headings. Article headings are for convenience only and have no contractual value or special meaning.

14.7 Non-waiver. The fact that OVHcloud does not exercise any right or remedy provided under this Contract at a given time and/or tolerates a breach of the Contract by the Client may not be interpreted as a waiver by OVHcloud of its right to exercise its right at a later date.

14.8 Modifications to the Contract. OVHcloud may modify the Contract at any time in its discretion. Such modifications are immediately applicable to all new Orders. For Services in use, the Client will be notified by e-mail or via its Control Panel of any modification to the Contract in force. Such modifications will come into effect thirty (30) calendar days after such notification is sent. However, modifications to Third-Party Product Terms of Service and modifications due to legal or regulatory compliance may take effect immediately insofar as OVHcloud has no control over them. When new conditions are detrimental to the Client, the Client may terminate the affected Services by registered letter with acknowledgement of receipt, or by using the form provided for this purpose in the Control Panel, within a maximum period of thirty (30) calendar days, or four (4) months for Consumers, from the entry into force of the new conditions.

14.9 Independence. The Contract does not give either Party the right to represent the other for any purpose whatsoever, nor does it have the purpose or effect of creating a partnership, a joint venture, or any other form of association. Each Party remains entirely independent, responsible for the management of its business, and or all its actions and assumes alone all risks related to its activity.

14.10 Assignment. Neither Party may assign the Contract, even in part, without the prior written consent of the other Party. As an exception, OVHcloud may assign the Contract, or any part thereof, to one of its Affiliates.

14.11 Notices. For any exchange of information by e-mail, the date and time of OVHcloud's server will be taken as proof between the Parties. This information will be retained by OVHcloud for the duration of the contractual relationship and for three (3) years thereafter. Subject to the other means of communication and recipients provided for in the Contract, all notifications, formal notices and other communications provided for in the Contract are deemed to have been validly delivered if they are addressed to:

To OVHcloud: By registered letter with acknowledgement of receipt to the following address: OVH AUSTRALIA PTY LTD, Level 12, 90 Arthur Street North Sydney NSW 2060.

To the Client: By registered letter with acknowledgement of receipt to the postal address associated with the Client Account or by e-mail.

14.12 Advertising and promotion. Throughout the duration of the Client's use of the Services, OVHcloud is authorized to mention the commercial relationship with the Client as part of the usual conduct of its communication activities. OVHcloud may also refer to the Client's trademarks and logos on all media, including all websites operated by OVHcloud, worldwide**.**

14.13 Admissible evidence. Data on digital media and data from OVHcloud's information system constitute legally admissible evidence with the same probative force as any document established, received or kept in writing. This data may be validly produced by OVHcloud in the context of any dispute and will be enforceable against the Client in this context. This data includes event logs, consumption statements, Order summaries, payment summaries and Incident management reports.

14.14 Computation of time limits., Unless provided otherwise in this Contract, time limits are calculated in calendar days, and begin to run from the day after the triggering event.

14.15 Survival.

The following articles of the Contract shall survive its termination or expiration for any reason whatsoever:

Article 3.2 (Intellectual property. Rights of use)

Article 10 (Liability)

Article 13 (Confidentiality)

Article 14.1 (Governing Law and Jurisdiction)

Article 14.2 (Statute of limitations)

and more generally any clause which by its nature is intended to survive termination of the Contract.

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