

DEFINITIONS :

Cloud: *Technology that uses remote resources and storage.*

Host Server: *Physical Server with a memory load and a processor load. Configured and administered by the Customer within the Private Cloud®, it is designed to accommodate one or more virtual machines.*

Infrastructure: *The structure established by OVH to accommodate the Customer's Private Cloud®, including in particular the network, the bandwidth and the Virtualisation.*

Management Interface: *The "Manager" space is accessible by the Customer from the page <https://www.ovh.com/managerv5/> after identification by inputting its customer identification and corresponding password.*

Pack: *Offer consisting of a host server and storage space, and configured in a Virtual Datacentre.*

Private Cloud®: *All of the Virtual Datacentres hosted on the OVH Infrastructure. The Private Cloud® is managed by the Customer through its management interface and the Virtualisation interface. Private Cloud® is a registered trademark of OVH.*

Storage space: *Disk space allocated to the Customer which allows them to store data on servers hosted in the Virtual Datacentre in a centralised and secure manner.*

Virtual Datacentre: *A de-materialised Datacentre composed of a Pack of additional resources subscribed by the Customer for Virtual Machines and a private network.*

Virtual Machine: *A non-physical server that uses Virtual Datacentre resources and is installed on the Private Cloud® network. Each virtual machine is independently managed from any other within the Customer's Virtual Datacentre but subject to the same virtualisation license.*

Virtualisation: *Technology that allows multiple virtual servers to operate on a real infrastructure.*

Virtualisation Interface: *Third party software provided by OVH that allows the Customer to manage their Private Cloud®, and in particular to establish and manage their Virtual Machines.*

ARTICLE 1 : PURPOSE

These Special Conditions supplement [OVH's General Terms and Conditions](#) and are intended to define the technical and financial conditions in which OVH agrees to rent and store on its Infrastructure the Customer's Private Cloud®.

The Customer expressly acknowledges that OVH has no involvement as defined herein for the administration of the Customer's Service.

These Special Conditions shall prevail over [OVH's General Terms and Conditions](#) should any conflict arise between these two documents.

ARTICLE 2 : MEANS

As part of providing the Service, OVH makes available to the Customer a Private Cloud® composed of Virtual Datacentres, that has a private and secure network. Due to the highly technical nature of the Service, OVH shall not be liable for downtime caused by routine or emergency maintenance by OVH or occasioned by third parties.

The Customer confirms that it has all the necessary technical knowledge to ensure the correct administration of a virtualisation service like the Private Cloud® which is provided by OVH.

The Customer is the sole administrator of the Virtual Datacentres which is composed of the Private Cloud®. OVH is limited to maintenance actions on the Infrastructure and is responsible for energy supply and the network connection to the Customer's Private Cloud®.

The Customer undertakes to use the Service, including the network resources allocated to it, in good faith. In case of abnormal use of Infrastructure resources generated by the Service, OVH reserves the right to terminate the Customer's Private Cloud® according to the provisions of Article 7 hereof.

ARTICLE 3: TECHNICAL SUPPORT

OVH may provide technical support which it may in its discretion modify or withdraw from time to time. Details of this service are available at www.ovh.ie. OVH offers users the ability to share their problems on the forum available at <http://forum.ovh.ie/> or on the dedicated Private Cloud® mailing list: pcc@ml.ovh.net.

ARTICLE 4 : CONDITIONS OF USE OF SERVICES

OVH offers Customers different Pack configurations, descriptions of which are available online at www.ovh.ie.

The Customer orders the Pack of its choice, each comprising of a Host server and Storage

space. The Customer also has the opportunity to complete its Pack with additional resources, such as Host servers or additional storage space.

The range of the Host Server determines the features available on the Virtual Datacentre. Activating some features may require a minimum number of Host Servers.

The Customer may access its Virtualisation Interface following subscription to the Service. The Customer is responsible for connecting all its administration operations to its Virtual Machines. It can then create, delete or modify its settings at its sole discretion.. By default, the Virtualisation Interface has only two simultaneous accesses per Private Cloud®. Any additional simultaneous accesses will be charged and invoiced separately.

The Customer may connect to the management interface to monitor its data usage and to manage its Packs. The Customer may view its Virtual Datacentres and order any additional resources required. The Customer may also view its billing status in this interface.

ARTICLE 5 : DESCRIPTION OF SERVICE

The Private Cloud® Service is a Service for professionals and allows the Customer to have its own secure private network.

The Service is based on the features developed by VMware®. The Customer, may through its Host servers and its Storage space install up to 15,000 Virtual Machines (limited to 10,000 switched on) to build its own Virtual Datacentre under a single administration.

As part of the Service, the Customer manages the IP address resources. It must be managed properly to ensure the proper functioning of the Service. The Customer is required to assign an IP address to each of its Virtual Machines and the Customer therefore solely responsible for the utilisation of IP addresses that were assigned to it by OVH.

Each Private Cloud® has its own secure private network. Traffic bandwidth is unlimited and free within the Private Cloud®, the same applies for incoming traffic from the Internet. The output bandwidth of the Private Cloud® is limited to a maximum volume of data set out on www.ovh.ie.

Beyond this limit, any additional consumption per gigabyte is accounted for by OVH and will be charged and billed to the Customer at the current rate as shown online at www.ovh.ie. OVH reminds the Customer that it can see the traffic volume recorded for the current month in its Management Interface.

For each Virtual Datacentre, the Customer is the sole administrator of its resources and has the option to purchase additional resources (Increase resources, Host Servers, Storage space) for a specific or sustainable requirement at its sole discretion. The Customer can choose to be billed for the month or only for the hours of use of these resources.

The Customer is the sole administrator of the Host Servers and Storage spaces and is solely responsible for ensuring it has the adequate resources to ensure the smooth functioning of its Virtual Machines.

ARTICLE 6 : OBLIGATIONS OF OVH

OVH is committed to providing and delivering with due care and diligence, a quality service in accordance with good industry practices.

OVH will:

- 6.1. Maintain the Infrastructure in an operational state. In case of failure thereof, OVH will replace the defective part as soon as reasonably possible unless that failure is not of OVH's making, or any other procedure that would require an interruption of service exceeding the usual time of replacement. In the latter case, OVH will immediately notify the Customer.
- 6.2. Provide access to the Customer's Private Cloud® via the Internet. OVH reserves the right to interrupt the Service to conduct a technical intervention to improve its operation.
- 6.3. Respond promptly to incidents which have not resulted from misuse of the Service by the Customer following a Customer's request for intervention.
- 6.4. Maintain tools of the highest quality in accordance with the rules and usage of its profession.

ARTICLE 7 : RESPONSIBILITY OF OVH

OVH accepts no responsibility for the following:

- fault, negligence, omission or failure by the Customer and/or failure to comply with advice provided by OVH to the Customer
- fault, negligence or omission of a third party over which OVH has no power or monitoring control;
- force majeure event or occurrence beyond the control of OVH;
- service stoppage for any reason referred to in Article 7;
- disclosure or unauthorised use of a password which is provided to the Customer in confidence;
- deterioration of the application;
- misuse of the terminals by the Customer or its customers;
- partial or total destruction of information transmitted or stored as a result of errors directly or indirectly attributable to the Customer;
- Intervention by a third party not authorised by the Customer;
- Non-compliance by the Customer of its own legal obligation.

OVH reserves the right to suspend the Customer's Service if the Customer's Service is endangering the security maintenance of the OVH Infrastructure, particularly in cases of piracy of the Customer's Virtual Machines, the detection of flaws in the security system, or

abnormal use of the resources of the infrastructure on which the Customer's Private Cloud® is established.

OVH will inform the Customer, as soon as is reasonably possible, of a proposed intervention. OVH will specify the nature and duration of such intervention, in order for them to make arrangements for the intervention. OVH is committed to restoring the connection as soon as the corrective measures have been taken by the Customer.

OVH shall not be liable for any information, sound, text, images, items, data accessible on websites hosted on the Customer's PrivateCloud® which is transmitted or uploaded by the Customer.

OVH does not backup specific Customer data hosted on the Private Cloud®, excluding remote backup, provided by OVH within the Service, but that does not relieve the Customer of performing a full data backup.

It is therefore the responsibility of the Customer to take all necessary measures to protect its data in case of loss or damage of data entrusted to it, whatever the cause, including those not specifically mentioned herein.

OVH gives no guarantee or provides no warranty or security for any consequences that results in the use of the Service by the Customer, particularly regarding the security and preservation of such data.

ARTICLE 8 : OBLIGATIONS AND LIABILITY OF THE CUSTOMER

- 8.1. The Customer agrees to have the power, authority and capacity necessary for the conclusion and implementation of the obligations set forth herein.
- 8.2. The Customer undertakes to provide valid contact information for its identification: Surname, Firstname, organisation if applicable, mailing address, telephone number, email address. OVH reserves the right to request additional documents, which the Customer must send within 72 hours after the request by OVH. Failure by the Customer to provide the requested document, shall give OVH the right to suspend the Customer's Services. The request by OVH may concern different sites hosted by the Customer.
- 8.3. The Customer is reminded that intervention by OVH with regards to the Private Cloud® subscription contract, is limited to providing the material and network resources needed for the Private Cloud®. As such, OVH can only ensure the rental of a dedicated infrastructure, without any control over the content of sites stored on the Service, the contractual relationship of the publishers of those sites with their host, or the administration of Virtual Machines established on the Customer's Service.

The Customer is the sole administrator of the Private Cloud ® and is solely responsible for the management of the data stored on the Service. It is the Customers responsibility to make the required backups to ensure the continuity of its Service and

activities.

The Customer is the only one who can access and manage the data stored on its Virtual Datacentre storage space

OVH only provides access for the Customer to the Private Cloud® to allow it to store its data and those of its customers.

OVH reminds Customers that breaches of confidentiality, data protection and related legislation and the unauthorised interception of communications, which includes hacking, may be subject to either criminal or civil proceedings under the relevant applicable legislation.

It is also the responsibility of the Customer to establish an easily accessible and visible system that allows any person to bring to its knowledge any offense which glorifies crime against humanity, incitement to racial hatred, child pornography, incitement to violence and injury to human dignity, or illegal gambling activities. Finally, the Customer's attention is drawn to the fact that it must appear as the host on the legal notice of its contractors published website (s).

- 8.4 The Customer shall undertake to respect the rights of third parties, personality rights, rights of intellectual property such as copyrights, licensing rights to patents or trademarks. Accordingly, OVH will not be held responsible for the content of information transmitted, distributed or collected, their operation and their updating, and all files, including files and address and this in any capacity whatsoever. The Customer is forbidden to make available to the public through sites hosted on the Private Cloud®, files, hypertext links, or proxy in violation of third parties including copyright and / or intellectual property rights.

OVH can only warn the Customer about the legal consequences arising from illicit activities on the Service and identify any joint liability for the use of data made available to users by the Customer.

It is the same whether the Customer is proven to be using the technique of spamming on the Internet, which will result in, without notice, the discontinuance and termination of the Service. The Customer is also prohibited from partaking in any intrusive activity or attempt to intrude from the Service (including but not limited to: port scanning, sniffing, spoofing ...).

Under these assumptions, OVH reserves the right to immediately and rightfully terminate the contract, without prejudice to any damages which OVH could claim.

- 8.5. The Customer alone bears the consequences of Service malfunction resulting from any use by its staff or any person to whom the Customer has provided a password or passwords for the Service. Similarly, the Customer alone bears the consequences of the loss of the above passwords.

The Customer is solely responsible for managing access to its Virtualisation Interface. Any connection, Service change or orders made through the Management Interface or

Virtualisation Interface is presumed to be performed by the Customer and thereby committing to its responsibility.

To maintain the level of security for the Customer's Service and all the Services present on its infrastructure, OVH is committed to informing the Customer, by email via the mailing list pcc@ml.ovh.net}, of the availability of updates that can match the Customer's Service.

In certain circumstances, OVH may require the Customer to pay a deposit in respect of the Services.

Without prejudice to any other rights it may have, OVH may in its discretion refuse to accept any order placed by the Customer if the Customer defaults in respect of any payment due to OVH..

OVH may offer the Customer the option to temporarily increase the storage space of its Virtual Datacentre and /or add Host Servers to its Virtual Datacentre. These features are billed according to the Customer's base rate applicable to the new configuration and available on the site www.ovh.ie}. Each started hour is charged. The Customer is billed at the end of the current month for all the temporary changes associated with its Virtual Datacentre during the month.

Any additional simultaneous Virtualisation Interface accesses that were unanticipated at the Customer's subscription to the Service will be billed to the Customer at the end of the month at the applicable rates which can be viewed on the site www.ovh.ie.

Additional resources (including without limitations – additional Host Servers or Storage Space), additional bandwidth or additional options may also be billed per hour of use. In this case, OVH may bill in respect of there terms at the end of the month in which they were used, amount corresponding to the price of all the services subscribed by the Customer for the month that were billed by the hour, and any additional bandwidth traffic.

All invoices awaiting payment and unpaid on the tenth day of the following calendar month, gives OVH the right to suspend the Service.

Without prejudice to any other rights it may have under this Contract, if any sum owed by the Customer to OVH remains unpaid for more than 20 days, OVH may terminate this Contract and delete the Customer's data.

12.2. In other cases, the Customer may cancel the contract by simply mailing the request to the following address: OVH Hosting Limited, 5 Fitzwilliam Place, Dublin 2 or request the closure of its services through its management interface.

12.3. Non-compliance by the Customer of the provisions of Article 8 of these Special Conditions of the Private Cloud®, including any activity specifically prohibited from OVH Services and / or any distributed content specifically prohibited on OVH Services and Infrastructure and / or expected to give rise to civil and / or criminal liability and / or likely to prejudice the rights of third parties, giving OVH the right to

disconnect and / or suspend without delay and without prior notice the Customer's services and immediately and rightfully terminate the contract, without prejudice to any damages which could be claimed by OVH.

- 12.4. Under this contract, for whatever reason, OVH is committed in proceeding with the full withdrawal of files relating to the Customer's site which are present on its infrastructure.
- 12.5. The Service may still be restricted, limited or suspended when the Special Conditions applicable to each type of Service supplied by OVH provides that this sanction is as a result of a breach.
- 12.6. In any event, the restriction, limitation or suspension measures shall be exercised according to the seriousness and the recurrence of the breach. They are determined according to the nature of the breaches found.
- 12.7. The Customer agrees in advance that OVH may restrict, limit or suspend the Service offered if OVH receives a formal request to that effect by a competent authority, administration, arbitration or judicial settlement in accordance with the appropriate and applicable Irish laws.