

SPECIFIC CONDITIONS FOR DEDICATED SERVERS

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CLAUSE 1: PURPOSE

The purpose of this document is to define the Special Terms and Conditions, including the terms of use and financial terms, applicable to the OVH Dedicated Server leasing service (hereafter the “Service(s)”). They supplement the OVH General Terms and Conditions of Service currently in force, which are applicable to the Service. In the event of contradiction, these Specific Conditions and their annexes override the OVH General Terms and Conditions of Service.

Terms starting with a capital letter are defined in the terms and conditions below, or otherwise in the OVH Glossary accessible on the OVH website.

CLAUSE 2: DESCRIPTION OF THE SERVICE

As part of the Service, OVH makes available to the Customer various categories of server, of which the fees, features and basic hardware and software configurations are described and accessible online on the OVH website. The Customer also has the use by default of a public bandwidth the capacity of which varies according to the offer and is specified on the OVH website. These configurations and features change at regular intervals. It is the Customer’s responsibility to take note of these changes, particularly in the context of completely new Orders.

Before choosing and using its Dedicated Server, the Customer undertakes to study carefully each available configuration in order to select the one(s) whose features meet its needs. The Service’s capacities may be limited. These capacity limits are specified on the OVH website.

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

Owing to the highly technical nature of the Service, OVH is subject only to a best-endeavours obligation, except with regard to meeting the Service levels relating to availability of the Infrastructure and to the response timescales laid down in the Contract, for which OVH has an absolute obligation.

CLAUSE 3: ORDERING AND DELIVERY

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

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

In the event of a Customer order that is liable to have an impact on the stability of OVH’s infrastructures or on the performance of the Services provided to other customers of OVH (such as saturation of the space available within a Data Centre, etc.), OVH reserves the right to consult the Customer before delivering the Service for the purpose of agreeing an alternative solution that suits the needs and constraints of the Parties.

CLAUSE 4: CONDITIONS OF USE OF THE SERVICE

4.1 General matters

Before using the Service, it is the Customer's responsibility to familiarise itself with all its features, including those described on the OVH website, as well as the applicable Service Terms and Conditions, including these terms and conditions of use, and to check that these terms and conditions meet its needs, taking account in particular of its activities and its risk analysis.

The Customer must have an internet connection at its disposal for connecting to the Management interface and accessing the Service, and remains solely responsible for the said internet connection, particularly with regard to its availability, reliability and security.

Given that the network resources provided to the Customer are shared, the Customer undertakes not to use the Service in a manner detrimental to OVH's other customers. It undertakes in particular not to use in an intensive manner the public bandwidth of which it has the use. In such a case, OVH reserves the right to apply limitations to this bandwidth, as indicated on the OVH website. The Customer may, if it so wishes, subscribe to additional bandwidth options for the purpose of having unrestricted use of a guaranteed public bandwidth.

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

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

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

In the context of maintenance operations, OVH may have occasion to replace an item of equipment in order to keep the Service in an operational condition. In such cases OVH carries out the replacement using an item of equipment that is identical or has equivalent features. When the equipment reference is no longer available (obsolescence, end of production and/or market availability, etc.), and it is necessary to replace it with an item of equipment that is more recent or that has a superior configuration, OVH cannot guarantee

the substitute item's compatibility with the Contents (including distributions, systems, software and applications) installed by the Customer in the context of the Service.

4.2 Distribution

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

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

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

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

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

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

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

4.3 API applications, tools and software

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

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

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

4.4 Location

The available Data Centres for the provision of Dedicated Servers are named on the OVH website or at the time of placing the Order.

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

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

OVH reserves the right to suspend the Customer's Service forthwith should it be used for an activity that is prohibited at the physical location of the equipment provided by OVH.

With regard to geolocated IP addresses, the Customer undertakes not use the Service in contravention of the legislation applicable in the country where the IP address is declared. In the event of a breach, OVH may be forced to suspend any geolocated address associated with the Customer.

CLAUSE 5: MEASURES FOR THE PREVENTION OF SPAMMING FROM OVH'S NETWORK

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

OVH shall monitor outgoing traffic from the Server towards port 25 (SMTP server) on the internet, which shall involve monitoring traffic by means of automatic tools.

The outgoing traffic referred to hereabove shall be monitored by OVH with a delay of a few seconds, rather than being filtered or intercepted. These operations shall be conducted by OVH in parallel between the Server and the internet.

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

The operation in 6.4 shall be conducted regularly and in a fully-automated manner by OVH and the Client acknowledges that no human intervention is involved during the monitoring of traffic to port 25 (SMTP port).

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

OVH shall not keep any copy of e-mails sent from the Server's SMTP port, even when they are identified as spam.

The Client may request unblocking of the SMTP port through its management interface.

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

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

CLAUSE 6: MITIGATION (PROTECTION AGAINST DOS AND DDOS ATTACKS)

6.1 OVH shall implement protection against DOS and DDOS-type hacking attempts provided that these attacks are conducted in a manner reasonably considered to be serious enough by OVH to warrant such protection. In implementing such protection, OVH shall use reasonable endeavours to ensure that the operation of the Client's Services is maintained throughout the duration of a DOS or DDOS attack.

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

6.3 The protection measures outlined in clauses 6.1 and 6.2 shall not apply in the case of attacks such as SQL injection, brute-force, abuse of security flaws or in similar-type attacks.

6.4 Given the nature of a potential DOS or DDOS attack and their complexity, OVH shall implement different levels of traffic protection in order to preserve its infrastructure and the Services.

6.5 Mitigation of a DOS or DDOS attack is only activated on detection of the attack by OVH's tools and for a minimum period of 26 hours. Until activation of the mitigation, the Services shall bear the attack directly, which may lead to the temporary unavailability of the Services.

6.6 Once the attack is identified and mitigation is automatically activated, mitigation shall not be deactivated prior to the end of the 26-hour period.

6.7 While mitigation is activated, OVH shall not guarantee the accessibility of the Client's applications but it shall endeavour to limit the impact of a DOS or DDOS attack on the Client's Services and on OVH's infrastructure.

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

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

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

The Client may trigger early activation of mitigation on its Services, although the Client acknowledges and accepts that activation of mitigation may directly impact the quality of its Services and that OVH accepts no responsibility for this.

CLAUSE 7: SERVICE LEVEL AGREEMENTS (SLAs)

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

OVH undertakes to ensure Service levels relating to availability of the Dedicated Server and to response and resolution times. In the event of these SLAs not being met, compensation will apply as follows:

Service	Compensation
Availability of the Dedicated Server	Credit of 5% of the monthly cost of the unavailable Dedicated Servers, for each one (1) hour of unavailability begun in excess of the SLA, limited to 100% of the said monthly cost.
Guaranteed response time*, Level 1 Incident (Dedicated Hardware Server)	Credit of 5% of the monthly cost of the unavailable Dedicated Server, for each one (1) hour of unavailability begun in excess of the SLA, limited to 100% of the said monthly cost.
Guaranteed resolution time**, Level 1 Incident (Dedicated Hardware Server)	Credit of 5% of the monthly cost of the unavailable Dedicated Server, for each one (1) hour of unavailability begun in excess of the SLA, limited to 100% of the said monthly cost.
Guaranteed response time*, Level 2 Incident (Performance of Dedicated Server)	Credit of 5% of the monthly cost of the affected Dedicated Server, for each one (1) hour of unavailability begun in excess of the SLA, limited to 100% of the said monthly cost.

(*) The response time is calculated with effect from creation of the support ticket. “Response” means the initial response to the support ticket by OVH technical staff and not resolution of the Incident.

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

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

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

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

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

The above Service Level Agreements are undertaken subject to the exclusions set out above, and on condition that the Customer cooperates with OVH to restore the Service in the event of non-availability.

When declaring the Incident and creating the ticket, the Customer gives OVH all the relevant information needed for OVH’s diagnosis and response. The Customer undertakes to remain available at all times for the purpose of cooperating with OVH immediately upon request, including supplying it with any additional information, and carrying out all necessary tests and checks. If necessary, the Customer gives OVH access to its Management Interface. If the Customer is not available or does not cooperate with OVH, this guarantee will not apply.

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

If a single event results in failure to fulfil more than one of the Service Level Agreements described above, multiple compensation payments will not apply. In such a case, the compensation payment most favourable to the Customer will apply. In the same way, the total amount of penalty payments made during a single month, for all events combined, cannot exceed the total monthly cost of the affected Service.

Compensation payments are made by deduction from the invoice for the month following receipt by OVH of the Customer's request for compensation. If more than a month has elapsed since closure of the relevant support ticket, compensation can no longer be requested by the Customer.

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

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

CLAUSE 8: SERVICE FEE, DURATION, RENEWAL AND CANCELLATION

The fee varies according to the range of server and the lease period (the "Initial Period") selected by the Customer when placing the Order. Only the fee shown on the order form issued by OVH corresponds to the total amount payable by the Customer.

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

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

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

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

When the Initial Period does not start on the first day of a calendar month (mid-month start), the Service renewal cycle is realigned with a calendar cycle upon the first renewal so that subsequent Renewal Periods start on the first day of a calendar month. *(For example: The automatic renewal at the end of the Initial Period of a Service initially subscribed to for one (1) year on 24 May 2019 entails the extension of the said service for the period from 24 May 2020 to 31 May 2020).*

If the Customer does not want the lease period of a Dedicated Server to be renewed at the end of its Initial Period or the current Renewal Period (“Renewal Date”), it deactivates the automatic payment function on its Management Interface at least 24 hours before the end of the Initial Period or the current Renewal Period.

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

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

Both the duration and terms and conditions of renewal and cancellation of some options and functions that can be combined with the Service may differ from those applicable to the Service. It is the Customer’s responsibility to take note of these.