SPECIAL CONDITIONS FOR WEBSITE HOSTING SERVICES ON A VIRTUAL PRIVATE SERVER

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ARTICLE 1: APPLICATIONS OF CONDITIONS

OVH Limited (the "Supplier") shall provide the VPS Hosting Services ("Services") to the Customer and the Customer shall pay for the Services in accordance with these Conditions and the General Conditions which shall govern the contract between the parties to the exclusion of any other terms or conditions whether proposed by the Customer, implied by law, trade custom, practice or course of dealing or otherwise (the "Contract"). In the event of conflict between these Conditions and the General Conditions, these Conditions shall prevail.

ARTICLE 2: VIRTUAL PRIVATE SERVER

2.1 There are a number of different configurations of Virtual Private Servers ("VPS") as set out online at http://www.ovh.co.uk/vps/. It is the Customer's responsibility to define in the Order the configuration and the operating system that will best suit their needs and expectations.

2.2 If the Customer has chosen the VPS Cloud configuration (as defined online), the Customer shall, at their discretion, notify the Supplier that they wish to subscribe to the FTP Backup Service for an additional monthly cost, in addition to the Charges. For the avoidance of doubt, this is only available to Customers who have chosen the VPS Cloud configuration.

2.3 The Customer may at their discretion adopt the Snapshot service, for an additional monthly charge, such services to be provided by the Supplier.

2.4 In consideration for the payment of the Charges by the Customer, the Supplier shall provide the Customer with a VPS on the Host Server, equipped with the dedicated resources (hard disk partitions, RAM and processor) specified in the Order.

2.5 Upon acceptance of the Order, the Supplier shall e-mail the Customer their access codes required to connect to the VPS. The VPS provided by the Supplier has a fixed IP V4 address, localised in accordance with the physical location of the VPS.

2.6 The Supplier is responsible for the administration of the Infrastructure, and for the administration of the Host Servers on which the Customer's VPS is installed, but the Supplier has no responsibility for the administration of their Customer's VPS and the

Customer is solely responsible for administration of their VPS. The Customer may install software on the VPS at their own risk and the Supplier accepts no responsibility for any subsequent malfunction of the VPS which results from any such installation by the Customer.

2.7 The Supplier reserves the right, with or without notice to the Customer, to limit, filter, suspend or restrict features and protocols (such as IRC or peer to peer file sharing) of the VPS to ensure the security of their Infrastructure. The Supplier will use reasonable endeavours to inform the Customer of any such limitations or restrictions wherever possible.

2.8 The Supplier shall provide a bandwidth for the Services up to 100 Mbps provided always that the total traffic of the bandwidth does not exceed the pre-defined set monthly volume of 10TB ("set monthly volume"). The monthly volume includes both intra-Supplier traffic and traffic outside of the Supplier network.

2.9 When the monthly traffic volume exceeds the set monthly volume, the bandwidth of the VPS will be limited to 1 Mbps until the next monthly renewal date.

2.10 The Host Server and the VPS shall remain the property of the Supplier at all times. The Customer shall not be entitled to sell, transfer, lease, charge, assign by way of security or otherwise deal in or encumber the VPS except as provided for under these Conditions.

2.11 The Customer may modify the configuration of their VPS according to the models predefined by the Supplier by Customer ordering the new configuration in their management interface ("Switching"). Subject to Conditions 2.12 and 2.13 below, any modification would usually take effect a few hours from receipt by the Supplier of the order.

2.12 The Customer acknowledges that the Supplier cannot guarantee Switching requests, as the Services are based on virtual technologies.

2.13 When Switching occurs, the Supplier will perform a reboot of the VPS which may cause the Services to be suspended until after the Switching has taken place. The Supplier has no liability to the Customer for any losses suffered as a result of such suspension.

ARTICLE 3: LOCALISATION

3.1 The choice of data centre or of the location of the Host Server is final and cannot be subsequently amended by the Customer.

3.2 The Customer is subject to the laws applicable in the country where the equipment is installed and the Customer will not use the VPS for any purpose or activity except as permitted by such law. If the Customer breaches any of their obligations under this Condition, the Supplier may at their discretion, suspend the Services until such time as that prohibited activity or use ceases.

3.3 With regard to localised IP addresses, the Customer undertakes to not use the VPS in any way that breaches the laws applicable in the country for which the IP address is declared. In the event of such use; the Supplier may, at their discretion suspend any localised address associated with the Customer.

ARTICLE 4: SERVICE LEVEL AGREEMENT

4.1 The Customer acknowledges that the service level agreement defined in this Article 4 does not apply to VPS in the 'SSD' range.

4.2 "**Monthly availability rate**" is calculated by subtracting the number of minutes of unavailability during the month in question from the total number of minutes in the same month, and then dividing the result by the total number of minutes in the month. "**Unavailability**" means the loss of access to, and inability to reboot the VPS, for more than three (3) consecutive minutes from the moment an incident ticket has been opened by the Customer.

4.3 The Supplier warrants that a VPS of the 'Cloud' range, shall have a monthly availability rate of 99.99%, calculated in accordance with Condition 4.2 above, subject to the exclusions set out below and provided always that the Customer collaborates with the Supplier to re-establish the Services in the event of unavailability.

4.4 At the time of the declaration of the incident and the creation of the incident ticket, the Customer shall provide the Supplier with all information that could help the Supplier to analyse and resolve the issue. Where an incident ticket is submitted, the Customer shall remain available at all times in order to collaborate with the Supplier on first demand, in particular to provide the Supplier with any additional information and perform all required tests and checks. If necessary, the Customer will provide the Supplier with access to their OVH account in the Control Panel. If the Customer cannot be contacted or does not collaborate with the Supplier, warranty at Condition 4.3 shall not apply.

4.5 The warranty at Condition 4.3 shall not, in any case, apply to the unavailability of components under the control of the Customer, such as software or applications installed and used by the Customer on the VPS.

4.6 The Supplier has implemented technical tools for monitoring VPS via, in particular, "PING" requests. This service level agreement shall not apply in the event that the Supplier, due to the Customer's configuration of the VPS, is unable to perform these technical operations.

4.7 Where an incident ticket has been created and:
   (a) the Supplier confirms that the VPS is available and in good working order, it shall be released from its obligations pursuant to this Article 4 in respect of that incident ticket, provided that the Supplier shall upon the request of the Customer, provide reasonable assistance to the Customer in identifying the cause of any detected issue; or.

(b) the Supplier confirms that the VPS is unavailable, it shall complete the diagnostic and any work reasonably required, in collaboration with the Customer, towards re-establishing the availability of the Services.

4.8 If the service levels defined in this Article 4 are not achieved, the Customer may, subject to the cases of exclusion set out in this Article 4, request the following compensation:

(a) where the monthly availability rate in Condition 4.3 is not achieved, compensation equal to 0.5% of the monthly amount paid by the Customer for the month during which the components were unavailable for consecutive sequences of one (1) minute (beyond the first three (3) consecutive minutes of lost access or connectivity), up to a maximum of 100% of the monthly amount invoiced.

It is expressly agreed that the compensation referred to above is the Customer's sole remedy for all damages, losses, liabilities, costs and expenses resulting from the Supplier's failure to comply with its obligations under this Article 4. As such, the Customer will renounce all further applications, claims and/or action.

4.10 Following the receipt of the Customer's claim for compensation, the Supplier shall subtract from the Customer's next monthly invoice the amount to be compensated. Any request by the Customer for compensation under Condition 4.8 must be sent to the Supplier within one month of the closure of the incident ticket to which the request for compensation relates.

4.11 The Customer may not claim for compensation under Condition 4.8 above where the unavailability results, in whole or in part, from:
> (a) events or factors beyond control of the Supplier, including but not limited to cases of *force majeure*, actions of a third-party, internet connection issues, the malfunction of the internet, the malfunction or misuse of hardware or software under the control of the Customer (in particular applications running on the VPS);
> (b) a breach of the obligations of the Customer in the framework of this Contract (in particular failure to collaborate with the Supplier to resolve the incident),
> (c) the misuse or inappropriate use of the Services by the Customer (in particular the misuse of the VPS or the OVH Control Panel);
> (d) scheduled maintenance;
> (e) an interruption caused by the Supplier's intervention under the conditions set out in Article 7 of this document; or
> (f) computer hacking or piracy.

In such cases, the Supplier reserves the right to invoice the Customer for the cost of work done to re-establish the availability of the Services. The Supplier shall provide a quotation for such work which shall be sent to the Customer for approval. The Supplier shall use reasonable endeavours to establish the cause of the unavailability, and confirm which exclusion set out above applies. The Supplier shall be permitted to

use components in the OVH information system (such as connection data) for this purpose.

ARTICLE 5: PRICES, METHODS OF PAYMENT AND BILLING

5.1 The Charges payable by the Customer for the Services vary based on the configuration of VPS that the Customer has requested as set out in their Order. The prices for each configuration are as set out on http://www.ovh.co.uk from time to time. The prices are payable in Pounds Sterling.

5.2 The Customer shall pay the Supplier the Charges in advance, upon placing the Order, and at the interval(s) specified therein and upon renewal of the Services, by credit or debit card, PayPal© or via the Supplier's account.

5.3 The Customer may carry out a configuration change during the billing period which results in the Customer Switching to a higher configuration. In such a case, the Customer will be invoiced in accordance with the price applicable to the new configuration as set out on http://www.ovh.co.uk from time to time. This invoice will include the additional Charges due for the remainder of the billing period in which the Switching occured and will set out the Charges payable by the Customer thereafter from the date the Switching occured until the date of expiry of this Contract.

5.4 Any additional options subscribed to by the Customer in the context of the Services will be billed individually, in accordance with the conditions and billing options applicable to that option as set out on http://www.ovh.co.uk ..

5.5 If the Customer's OVH account is in credit for an amount higher or equal to the amount invoiced for the Switching under Condition 5.3 above, then the amount will automatically be debited from the Customer's OVH account.

5.6 If the OVH account is not in credit under Condition 5.5 above, the Supplier will debit the Customer by one of the methods of payment registered and associated to their OVH account.

5.7 If the Supplier is not able to debit the amount from the associated method of payment under Condition 5.6 above, the Supplier shall send an e-mail to the Customer requesting that payment for the unpaid invoice be paid immediately. If the Customer does not make this payment, the Services will be suspended by the Supplier until such payment is received.

ARTICLE 6: OBLIGATIONS OF THE SUPPLIER

6.1 The Supplier shall provide the Services with reasonable care and skill and in accordance with good industry practice.

6.2 The Supplier shall provide the Infrastructure necessary for the provision of the Services.

6.3 The Supplier shall use its reasonable endeavours to ensure that:

(a) the Host Server is administered and maintained in good working order and in accordance with best industry practice;

(b) any defect, error or malfunction of the Host Server is remedied as soon as is reasonably practicable, and the Customer is informed immediately if such repair or replacement requires the Services to be suspended for any period;

(c) any disruption to the Services which does not result from any breach of this Contract by the Customer or any factor outside of the Supplier's control shall be rectified as soon as is reasonably practicable following a request from the Customer;

6.4 The Supplier shall use reasonable endeavours to inform the Customer by email as soon as reasonably practicable if due to any maintenance, repair or upgrade requirements the Services are to be suspended, such notice to include information about the likely duration of such suspension.

ARTICLE 7: LIABILITY OF THE SUPPLIER

7.1 The Supplier provides the Customer with access to VPS to allow the Customer to store data, materials and other information belonging to the Customer or their customers, and the Customer accepts full responsibility for such data, materials and other information. The Customer is solely responsible for the services, information and websites hosted on their VPS, the data, materials and other information ("Content") of information transmitted, distributed or collected, their operations and updates, and all files, including address files and the Supplier has no responsibility or liability for the same.

7.2 Save for personal injury or death caused by the Supplier's negligence, fraud or fraudulent misrepresentation or breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 the Supplier shall have no liability to the Customer under the Contract for any losses or liabilities resulting from any act, omission, fault or negligence of the Customer or the Customer's agents, sub-contractors or employees, whatsoever, in particular due to:

(a) breach by the Customer of their obligations under the Contract, including (without limitation) any partial or total destruction of information transmitted or stored following errors attributable directly or indirectly to the Customer and any suspension or termination of access to the VPS by reason of any breach by the Customer of their obligations under Condition 8;

(b) malfunction of the VPS or any relating losses resulting from any use of the VPS by any employee or agent of the Customer or any other person to whom the Customer has provided the confidential password(s) provided to the Customer by the Supplier;

(c)   loss of or failure by the Customer to maintain the security of the confidential password(s) provided to the Customer by the Supplier, or any improper use of any such password(s);

(d)   failure by the Customer to take all necessary measures to backup their data in case of loss or damage for any reason whatsoever, whether via the FTP Backup Service mentioned in these Conditions or otherwise;

(e)   use of Content which is made available by the Customer to users;

(f)   other negligent act or omission of the Customer, including any failure by the Customer to follow the advice or recommendations of the Supplier, including (without limitation) any improper use of terminals by the Customer or the Customer's customers;

(g)   breach, infringement or negligent act or omission of a third party of which the Supplier has no monitoring control;

(h)   general deterioration of the application;

(i)   access to the VPS by a third party without the authority of the Customer or other actual or suspected security breaches in connection with the Services which are outside the control of the Supplier;

(j)   act of piracy, viruses, worms, trojan horses or other harmful codes that affect or may affect the VPS and/or the provision of the Services;

(k)   modification (or attempted modification) of the Infrastructure by the Customer or a third party not authorised by the Supplier;

(l)   downtime caused by routine or emergency maintenance, repair or upgrade to the VPS Hosting Service which has been reasonably notified to the Customer in accordance with Condition 6.4;

(m)   failure of any network operators, and the Customer's service providers, to comply in whole or in part with any obligations relating to the operation of the internet;

(n)   a force majeure act, event, omissions, non-events or incident outside the Supplier's reasonable control including but not limited to acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster.

7.3 The Supplier accepts no responsibility for any Content transmitted, distributed, collected or posted on or through the Customer's VPS, or for the operation or updating of any files (including address files) containing such Content and, gives no guarantee regarding the security or preservation of such Content.

7.4 The Supplier reserves the right to suspend the Customer's access to the VPS if the Customer's VPS constitutes a danger to the maintenance of the security of the

Infrastructure, particularly in cases of piracy of the Customer's VPS, where a flaw is detected in the security system.

ARTICLE 8: CUSTOMER'S OBLIGATIONS

8.1 The Customer warrants that it has the power, authority and capacity necessary to enter into this Contract and to observe and perform their obligations under this Contract, including (without limitation) all necessary technical knowledge required to ensure correct administration of the VPS and to back up the data stored on the VPS.

8.2 The Customer shall read and comply with the documentation made available to the Customer by the Supplier relating to the VPS.

8.3 The Customer shall provide valid contact information (first name, surname, organisation if applicable, mailing address, telephone number, and email address) for any site or sites hosted by the Customer within seventy two (72) hours of any request from the Supplier for such information.

8.4 The Customer shall take all reasonable care when using the VPS, and shall be responsible for:

    (a)   managing the VPS. The Customer may not claim any reimbursement, replacement, or compensation from the Supplier if the VPS is lost or damaged following a misconfiguration of the VPS by the Customer;

    (b)   any Content uploaded onto the VPS and checking that it functions satisfactorily. the Supplier shall not be responsible for any failure of the Customer to upload the Content correctly, and shall not be responsible for providing support in relation to the control and operation of the Content;

    (c)   the Customer's equipment, systems or software necessary for the management of the VPS.

    (d)   complying with all applicable laws and regulations concerning the Content, including (without limitation) their obligations under the **Electronic Commerce (EC Directive) Regulations 2002 and the Privacy and Electronic Communications (EC Directive) Regulations 2003;**

    (e)   ensuring that the Content, hypertext links and any activity hosted on or conducted via the VPS do not infringe any applicable laws, regulations or the rights of any third parties, including (without limitation) material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights such as personality rights, copyrights, patent rights, trademarks and other intellectual property right ("Inappropriate Content");

    (f)   making regular backups of the Content from time to time.

8.5 The Customer shall not use, or attempt to use, the VPS, or permit the VPS to be used for port scanning, sniffing, spoofing or any similar activities and shall not send unsolicited emails, or spam, from the VPS. Proxy services and Cardsharing (CCCam or similar activities) are not permitted on the VPS.

8.6 The Customer shall use their best endeavours to ensure that all Content on the VPS does not contain any viruses and/or other harmful code.

8.7 The Customer shall not use the VPS for the establishment of unlocking services with the purpose of allowing the downloading of files in large quantities onto the file hosting platforms.

8.8 The Customer shall arrange and pay for any licence that is required when using third party software on their VPS.

8.9 The Supplier reserves the right to inspect the Customer's usage of the VPS in order to verify compliance with the provisions of this Condition.

ARTICLE 9: MEASURES FOR THE PREVENTION OF SPAMMING FROM THE SUPPLIER'S NETWORK

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

9.2 Further to Condition 9.1, the Supplier shall monitor outgoing traffic from the VPS towards port 25 (SMTP server) on the internet, which shall involve monitoring traffic by means of automatic tools.

9.3 The outgoing traffic referred to in Condition 9.2 shall be monitored by the Supplier with a delay of a few seconds, rather than being filtered or intercepted. These operations shall be conducted by the Supplier in parallel between the VPS and the internet.

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

9.5 The operation in Condition 9.2 shall be conducted regularly and in a fully-automated manner by the Supplier and the Customer acknowledges that no human intervention is involved during the monitoring of traffic to port 25 (SMTP port).

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

9.7 The Supplier shall not keep any copy of e-mails sent from the VPS's SMTP port, when they are identified as spam.

9.8 The Customer may request unblocking of the SMTP port through their management interface.

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

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

ARTICLE 10: MITIGATION (protection against DOS and DDOS attacks)

10.1 The Supplier shall implement protection against DOS and DDOS-type (Distributed Denial Of Service) hacking attempts provided that these attacks are conducted in a manner reasonably considered to be serious enough by the Supplier to warrant such protection. In implementing such protection, the Supplier shall use reasonable endeavours to ensure that the operation of the Customer's Services is maintained throughout the duration of a DOS or DDOS attack.

10.2 The function in Condition 10.1 involves monitoring the traffic sent to the Customer's Services from outside the Supplier's network. The traffic identified as illegitimate shall then be rejected by the Supplier prior to reaching the Customer's Infrastructure, thus allowing legitimate users to access the applications offered by the Customer in spite of the attack.

10.3 The protection measures outlined in Conditions 10.1 and 10.2 shall not apply in the case of attacks such as SQL injection, brute-force, abuse of security flaws or in similar-type attacks.

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

10.5 Mitigation of a DOS or DDOS attack is only activated on detection of the attack by the Supplier'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.

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

10.7 While mitigation is activated, the Supplier shall not guarantee the accessibility of the Customer's applications but it shall endeavour to limit the impact of a DOS or DDOS attack on the Customer's Services and on the Supplier's Infrastructure.

10.8 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 the Supplier's Infrastructure or the infrastructure of the other customers of the Supplier, the Supplier shall strengthen its

protection measures which may lead to the deterioration of the Customer's Services or impact its availability for which the Supplier shall not be liable.

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

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

ARTICLE 11: TERM AND TERMINATION

11.1 The Contract shall commence when the Supplier e-mails the Customer their access codes to connect to the VPS in accordance with Article 2 and, subject to the following provisions of this Article 11 will terminate automatically on the expiry date.

11.2 Without prejudice to any other rights or remedies which may be available to it, the Supplier shall be entitled without prior notice to the Customer to terminate this Contract and suspend the Services with immediate effect without incurring any liability if the Customer fails to pay the Charges by the due date under Article 5 of these Conditions or if there is any activity on the Host Server by the Customer which is expressly prohibited under the Contract and/or which may reasonably be expected to give rise to civil and/or criminal liability and/or to prejudice the rights of third parties and, for the purpose of Condition 11.5(a) of the General Conditions, any breach of Article 8 of these Conditions shall be deemed to be a material breach of the Contract.

11.3 Either party shall be entitled to terminate this Contract for their own convenience at any time by giving thirty (30) days' written notice to the other party.

11.4 The Supplier may restrict, limit or suspend the Services if required to do so by any court or competent authority in accordance with applicable law.

11.5 The Supplier may delete data, materials, software, Content or any other infomation on the Customer's VPS following termination of the Contract, without incurring any liability towards the Customer.

ARTICLE 12: CONFIDENTIALITY

12.1 Each party shall protect the confidential information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard their own confidential information of a similar nature, being at least a reasonable degree of care.

12.2 The obligations set out in this Condition shall not apply to confidential information that the receiving party can demonstrate:

> (a) is or has become publicly known other than through breach of this Article 12; or

> (b) was in the possession of the receiving party prior to disclosure by the other party; or

> (c) was received by the receiving party from an independent third party who has full right of disclosure; or

> (d) was independently developed by the receiving party; or

> (e) was required to be disclosed by a governmental authority, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement.

12.3 The obligations of confidentiality in this Condition shall not be affected by the expiry or termination of this agreement and shall remain in full force and effect until such information has become generally known in the public domain other than by a violation of this Contract. Each party shall return to the other party all documents and tangible items in their possession and destroy any and all computer files or other electronically stored data or media which contain any part of the confidential information received from the other party under this Contract upon the written demand of the disclosing party.

ARTICLE 13: DATA PROTECTION

13.1 In this Condition, Personal Data has the meaning given in the Data Protection Act 1998.

13.2 The Supplier warrants that, to the extent it processes any Personal Data on behalf of the Customer:

> (a) it shall act only on instructions from the Customer; and

> (b) it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

ARTICLE 14: TECHNICAL SUPPORT

For any malfunction of the Services, the Customer can contact the incident team established by the Supplier, and whose contact details are available at http://www.ovh.co.uk. Similarly, for any technical advice related to the use of the VPS, the Supplier invites users to go to the forum available at http://forum.ovh.co.uk/ or to communicate with users through the mailing list dedicated to the VPS: vps@ml.ovh.net.

BY PLACING AN ORDER ONLINE, THE CUSTOMER SIGNIFIES THEIR UNCONDITIONAL ACCEPTANCE OF THESE CONDITIONS. If, after reading these Conditions, the Customer has any questions, they should please contact OVH at 3 Southwark Street London SE1 1RQ.