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SwissBackup

Article 1 - Scope of application

1.1 Terms beginning with a capital letter have the meaning defined in this Contract, or, failing that, by the definition given in the Infomaniak Lexicon available on the infomaniak.com website.

1.2 The Special Terms and Conditions apply without restriction or reservation to the Swiss Backup (hereinafter "Swiss Backup") service. They supplement the General Terms and Conditions of Use (hereinafter referred to as the "TCUU") but take precedence over them in the event of any contradiction between these documents.

1.3 In accordance with Infomaniak's TCU and according to the terms and conditions set out therein, these Special Conditions may be modified to take into account any legal, jurisprudential or technical evolution.

Article 2 - Description and scope of the Service

2.1 Infomaniak provides a data storage platform in order to save, host and restore the files provided by the Customer on this platform.

2.2 The Customer has the opportunity to test the Swiss Backup service free of charge for a period of ninety (90) days. The characteristics of the offer are described on the Swiss Backup sales page.

Article 3 - Invoicing

3.1 The amount to be paid for the Swiss Backup Service will be indicated on the Site and during the Service order process.

3.2 Details of the billing process are set out in the T&Cs in the Payment Terms section.

3.3 Infomaniak endeavours to warn the Customer in good time before the end of the service. However, it is the responsibility of the Customer to respect the deadlines. If the price of the renewal fixed in the tariff is not paid in full, Infomaniak will not be able to carry out the renewal requested by the customer and the devices that try to send files will stop being saved. In this case, Infomaniak will proceed with the suspension of the Service one (1) day after the contract expires and will delete it after an additional thirteen (13) days, i.e., fourteen (14) days after the expiration. The deletion of the Service will imply a definitive and non-recoverable deletion of the data saved up until then.

Article 4 - Infomaniak's obligations and responsibilities

4.1 Infomaniak undertakes to carry out all the tasks incumbent upon it in accordance with these special conditions, with all due care and with the required degree of competence.

4.2 Infomaniak does not give any guarantee related to the consequences of the use of the Service by the Customer.

4.3 The Customer is informed that Infomaniak's intervention in the context of the subscription of a contract relating to Swiss Backup is limited to making available the material and network resources necessary for Swiss Backup.

4.4 Infomaniak reserves the right to interrupt or limit its services to the Customer to carry out a technical intervention to improve its operation.

4.5 In the event that Infomaniak notices or becomes aware of a use that affects its infrastructure and other customers, Infomaniak reserves the right to immediately suspend or remove the service and/or to immediately terminate the Contract, without prejudice to the right to any damages that Infomaniak may claim.

Article 5 - Customer's obligations and responsibilities

5.1 The Customer is solely responsible for the files transmitted on the Swiss Backup service and assumes all risks associated with them, including those relating to intellectual property or any other legal claims. By using and storing files on the Swiss Backup service, the Customer declares that he has the necessary rights to the data concerned.

5.2 In respect of any standard software and any other software developed or provided by third parties, the Customer agrees to accept and abide by the terms and conditions applied by third parties to the rights of use, licence and service associated with such software.

5.3 Regardless of the SwissBackup Offer used by the Customer, the installation of applications/scripts that could compromise the proper functioning or security of the network, material or equipment is not permitted. The execution of the following processes, by way of example, is prohibited: • Any type of activity related in any way to crypto-currencies;

5.4 The Customer understands and agrees that Infomaniak will not be liable to the Customer for any loss, including indirect, incidental, special or consequential damages, incurred by either party as a result of the loss, theft, unauthorized disclosure, unauthorized manipulation, alteration, deprivation of use or any other compromise of the identifiers or passwords used by the Customer.

5.5 The Customer is furthermore informed that he/she will not have physical access to the servers at any time.

Article 6 - Backup and location of data

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6.1 Infomaniak guarantees the location of the data in Switzerland. All the data transmitted by the Customer to Infomaniak is stored and hosted exclusively in data centres that are the property of Infomaniak.

6.2 The Customer is responsible for implementing its own measures to maintain appropriate security, protection, backup and availability of its data.

6.3 The Customer acknowledges that any termination, whether it is the result of an unpaid invoice or a voluntary or involuntary action on the part of the Customer, will result in the immediate, definitive and irrecoverable deletion of all the data contained on Infomaniak's servers. The Customer will take care to proceed with the prior repatriation of all his data in the event of early and voluntary termination.

Article 7 - Privacy Policy

7.1 Full details of the Privacy Policy can be found on the website https://www.infomaniak.com/en/legal/confidentiality-policy.

Article 8 - Service Level Agreement (SLA)

8.1 Service level commitments

8.1.1 Availability rate The availability rate is calculated based on the total number of minutes in the selected month minus the total minutes of unavailability in the selected month, divided by the total number of minutes in the selected month. More specifically, Infomaniak undertakes to ensure the following rate of availability for the product: 99.99%.

8.1.2 Unavailability In the provision of this Service, unavailability shall be understood to mean the impossibility for the Customer to perform one of the essential tasks of the Service, i.e. the backup or restoration of data. The maximum unavailability shall not exceed 5 minutes per month. Exceeding the unavailability or recurring unavailability will give rise to a penalty system set out below.

8.1.3 Error classes and response times The table below summarises the maximum allowable times per failure against the identified error classes. An occurrence is open until a failure is reported as being resolved by Infomaniak.

Error category	Effects	Interruption time
A	Unavailability of Service	5 minutes
A2	Additional minutes of unavailability of A	1 minute
B	Slowdown of Internet network	60 minutes
C	Security problem for Service	60 minutes

C2	Security problem for Service with data compromised	n.a.

8.1.4 Penalties Except in the case of force majeure (see below), the customer can claim the application of penalties in the case of disruptions to the resources due to a failure by Infomaniak or one of its subcontractors. In all cases, the amount of the penalty may not exceed 50% of the amount of the current contract. The penalty rates are set out in the table below and the corresponding amount, calculated on the invoice for the period during which the unavailability occurred, will be deposited into the prepaid account.

Error category	Occurrences(s) per year	Amount of the current contract as a percentage
A	1	10%
A2	Not applicable	1%
A	2	20%
A	3	30%
A	4	50% with breach of contract possible
B	2	5%
B	4	10%
B	6	20%
B	8	30%
C	1	20%
C	2	50% with breach of contract possible
C2	1	50% with breach of contract possible

The Customer can only claim the application of penalties if the notification of the unavailability of resources is made at the latest two months after the occurrence of the latter, and on the condition that he sends Infomaniak a request including: • The date(s) and time(s) of the start and end of the unavailability; Infomaniak will analyse the cause of the unavailability and will reserve the right to request additional information in order to carry out its analysis. If this analysis shows that the unavailability is due to Infomaniak (except in the case of Force Majeure, see at the end of the document), then it will apply the penalties set out in the table above in accordance with the rate of unavailability identified.

8.1.5 Exclusion factors Penalties for unavailability of the Service cannot be applied if this is the result of: - factors over which Infomaniak has no control; - inappropriate use of the Service by the Customer; - planned maintenance; - a blocking applied by Infomaniak and resulting from a decision in accordance with the TCU;

8.2 Resolving system errors and failures

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8.2.1 Error reports Failures are analysed in detail in order to understand their origin and to enable the implementation of measures to prevent their recurrence. The Customer will be warned of any failure detected by Infomaniak.

8.2.2 Complaints handling (escalation process) Complaints must be submitted electronically to Infomaniak via the contact form (https://support.infomaniak.com) or directly from the assistant available in the Administration Console.

8.2.3 System failures and errors Principle Infomaniak does everything possible to guarantee the availability as indicated above. In the event of a breakdown of one of the elements, Infomaniak undertakes to restore the faulty Service as soon as possible. Infrastructure failures that result in the interruption of the availability of the Service are communicated as soon as possible to the Contact Persons (see below) and may result in penalties being incurred. However, Infomaniak cannot be held responsible for failures linked to the technologies installed by the Customer, insofar as these are not linked to negligence on the part of Infomaniak. In the event that the customer suspects or notices a malfunction and/or unavailability on the Infomaniak installations, it is up to the customer to contact the Infomaniak support services via https://support.Infomaniak.com or directly from the wizard available in the Administration Console by notifying the problem as urgent. The customer must detail and transmit all useful information to Infomaniak so that the latter can intervene as efficiently and quickly as possible on the problem. Infomaniak will do everything possible to respond to the customer as quickly as possible.

8.2.4 Measurement indicators and monitoring Infomaniak constantly monitors the availability of its services, enabling it to monitor its entire system and network infrastructure. Basically, Infomaniak implements and proactively maintains adequate measures in order to: • Monitor the system availability of the Service; • Detecting potential infrastructure-related disturbances;

8.2.5 Maintenance Principle Infomaniak undertakes to maintain its installations (hardware and software) in order to guarantee a reliable service. This service includes: • the correction of problems that lead to an interruption of services under the responsibility of Infomaniak, in particular the hardware (servers, switches, routers, etc.) and software that allow the Service to function; • replacement or upgrade of hardware/software if necessary; The Customer will be informed at the latest 48 working hours before any maintenance that may affect the proper functioning of its applications. Maintenance has a suspensive effect on penalties. No compensation can be claimed during planned or urgent maintenance procedures.

8.3 Communication

8.3.1 Customer contact persons The contact persons are the people who are authorized to communicate officially with Infomaniak. These people must be included in the user accounts of the Infomaniak administration console and have management rights for the product concerned by this document. The contact persons assess the priorities on open tickets. Infomaniak may require an authentication process for security reasons.

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8.3.2 Contact person at Infomaniak The customer can contact support during working hours.

8.3.3 Communications from the customer Tickets must be created from the Infomaniak support page (support.infomaniak.com) or from the dedicated wizard in the Administration Console. The creation of a ticket must leave a "trace" and must be kept for the duration of the contract. The telephone can be used for quick requests that do not require investigation. If necessary, Infomaniak can ask for, or will proceed with, the creation of a ticket.

8.3.4 Communications from Infomaniak Outgoing communications from Infomaniak will be sent from the address support@infomaniak.com to the contact persons. Infomaniak can also make requests that require rapid responses by telephone.

8.4 Safety

8.4.1 Safety measures • Strict control of access to Infomaniak's physical sites and equipment; • N+1 redundancy of network, power and cooling at all production sites; • For each type of server and at each site, one or more servers are always available quickly in case of need (failures, etc.). • Insurance to cover the services and any risks inherent in Infomaniak's activity as well as its legal obligations;

8.5 Force majeure

Force majeure is defined as an unforeseeable and/or unavoidable event beyond the control of Infomaniak. Infomaniak will not be held responsible if the execution of the Contract, or of any obligations incumbent on Infomaniak under this Contract, is prevented, limited or disturbed due to, but not limited to, a fire, an explosion, a failure of the transmission networks, a breakdown of public services or telecommunications, a collapse of the installations epidemic, pandemic, natural disaster, earthquake, flood, power failure, war, embargo, law, injunction, request or demand of any government, strike, boycott, withdrawal of authorization of the telecommunication operator, or any other circumstance beyond the reasonable control of Infomaniak. In the event of Force Majeure, the party that cannot perform its obligations under the contract is obliged to inform the other party by registered letter as soon as it becomes aware of the situation. This does not commit the other party to accepting or contesting the allegations of force majeure. In cases of force majeure, the Customer may immediately terminate the contract at any time.

Review of 25/04/2023