

## Managed Cloud Server

### Article 1 - Scope

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 Site.

1.2 The Special Conditions apply without restriction or reserve to the Cloud Server service (hereinafter referred to as "Server") offered by Infomaniak. They complete but will prevail over the General Conditions of Use (hereafter referred to as "GCU") if a contradiction should appear between these documents.

1.3 In accordance with Infomaniak's GCU and according to the terms and conditions set out therein, these Special Conditions may be modified in order to take into account any legal or technical developments or changes in case law.

### Article 2 - Description of the service

2.1 As part of the provision of the service, Infomaniak provides the Customer with a Server with a private and secure network as well as a range of resources for different use cases, the configurations and characteristics of which are described and accessible online on the Infomaniak website. The types of resources correspond to different combinations in terms of CPU, RAM and storage capacities.

2.2 For each Server, the Customer is the sole administrator of its resources and has the possibility to subscribe additional resources (CPU, memory and storage).

#### 2.3 Applications

2.3.1 In addition, as part of the use of the Service, Infomaniak provides the Customer with a tool called Web Applications, which is not overpriced, allowing the installation of applications on the hosting space provided for this purpose.

2.3.2 The tool integrates two types of application, those developed and managed by Infomaniak and those developed by third parties. Applications developed by Infomaniak Site Creator Applications developed by third parties All other applications except the one mentioned in the previous point.

### Article 3 - Invoicing

3.1 The applicable rates for the Service are indicated on the Site and during the ordering process.

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

3.3 In the absence of full payment of the renewal price fixed in the tariff, Infomaniak will not be able to carry out the renewal requested by the customer. 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. No data recovery will be possible once the service has been removed.

## **Article 4 - Obligations and responsibilities of Infomaniak**

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

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

4.3 Infomaniak provides support for any request relating to the Applications that it manages and on which it can intervene. Any request relating to the functionality of the Application itself and problems impacting the operation as normally expected of the said Application is considered a support request to which Infomaniak will respond. Infomaniak will not respond to any request relating to Webmastering, i.e. the development of the Customer's website. Furthermore, in the event of the use of the Applications, whether or not managed by Infomaniak, the latter does not offer any support and does not assume any responsibility with regard to the Customer's end customers.

4.4 The Customer is informed that Infomaniak's intervention within the framework of the subscription of a contract relating to the Server, as well as to the Applications managed by Infomaniak, is limited to the provision of the material and network resources necessary for the proper functioning of the Server.

4.5 Infomaniak reserves the right to interrupt or limit its services to the Customer in order to carry out technical intervention with the aim of improving its operation. In addition, Infomaniak reserves the right to make changes to the applications it manages in order to optimise their operation and to remove functionalities if it deems this necessary.

4.6 In the event that Infomaniak observes or becomes aware of a use that affects its infrastructure and other customers, Infomaniak reserves the right to immediately suspend or cancel the Service and/or terminate the Contract immediately and by right, without prejudice to the right to any damages that Infomaniak may claim.

## **Article 5 - Obligations and responsibilities of the Customer**

5.1 The Customer is solely responsible for the content, data installed on the Service, as well as the development, moderation, operation, maintenance, support and use of its content and applications,

including when its content is provided by its end users.

5.2 The Customer is solely responsible for the end users using the Customer's data, resources and applications.

5.3 With respect to 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 services associated with such software, which may contain provisions that prevail over these Terms.

5.4 The Customer is further informed that he/she will not be able to physically access the servers at any time.

5.5 The installation and use of applications developed by third parties are carried out at the Customer's own risk. In particular, Infomaniak does not provide any assurance or guarantee concerning the stability, reliability, quality, suitability for a specific use or specific results of these applications and refuses any responsibility in this respect. The use of applications developed by third parties does not exempt the Customer from respecting his Obligations as defined in the Obligations and responsibilities of the Customer of the GCU.

5.6 Furthermore, it is the responsibility of the Customer to update and keep up to date the scripts, applications (CMS, forums and others) as well as their dependencies. In the event of problems due to the use of a version that is older than the most current version or that contains a flaw or the non-installation of updates, Infomaniak cannot be held responsible.

5.7 The use of the Site Creator application is subject to the acceptance of the Obligations as defined in the article Obligations and responsibilities of the Client in the GCU. Infomaniak cannot be held responsible for any problem arising from the use of functionalities developed by third parties, such as, for example, the means of payment made available to the end clients by the Client. The use of the said functionalities is, moreover, subject to the acceptance of the specific conditions of the third party.

## **Article 6 - Service Patchman Security Scanner**

6.1 Patchman Security Scanner is an included free service that proactively detects and fixes known security vulnerabilities in common web applications. This protection also detects and automatically quarantines malicious files to protect your reputation and prevent your sites from being penalized by search engines.

6.2 This service can be disabled at any time from your Administration Console.

6.3 Malware detection runs locally on your Service, which means that the Customer Content never leaves Infomaniak's infrastructure.

6.4 A file detected as malicious is moved to a secure folder and then automatically deleted after 6 months. During this period, the Client can cancel this operation at any time from the Administration Console.

6.5 The Customer is notified by email when a vulnerability or malicious file is detected, automatically corrected or quarantined.

6.6 The Customer acknowledges and accepts that Infomaniak is authorised to use the services of third party companies to provide the Patchman Security Scanner Service without the consent of the Customer.

## Article 7 - Data backup

7.1 All data transmitted by the Customer to Infomaniak is stored and hosted exclusively in data centres in Switzerland which are the property of Infomaniak.

7.2 The Customer is responsible for the proper configuration and use of the Server. It is responsible for implementing its own measures to maintain appropriate security, protection, backup and availability of its data, which may include the use of encryption technology to protect its data from unauthorised access and the archiving of such content.

7.3 Infomaniak preventively backs up the contents of the Cloud Server once a day on servers distributed between several of its datacentres. Seven (7) successive backups are kept and can be restored by the customer.

7.4 Any termination, whether due to non-payment or voluntary or involuntary action on the part of the Customer, will result in the deletion of the data and recovery will only be possible within six (6) days of the deletion. After this period of six (6) days, any recovery will be definitively impossible. The Customer shall also take care to repatriate all his data beforehand in the event of early and voluntary termination.

## Article 8 - Service Level Agreements (SLAs)

### 8.1 Service Level Agreements

8.1.1 Availability rate The availability rate is calculated on the basis of 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 on the Service: 99.99%.

8.1.2 Unavailability rate 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 class

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
D	Failure involving one of the Customer's virtual servers	120 minutes

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 to D	2	5%
B to D	4	10%
B to D	6	20%
B to D	8	30%

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 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 it emerges from this analysis that the unavailability is its fault (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 The application of penalties in the event of unavailability of the Service is not envisaged when the latter occurs as a 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 our GCU;

## 8.2 Resolving system errors and failures

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 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 involve interruption of the availability of the customer's applications 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 that are 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 ; • Detect 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 hardware (servers, switches, routers, etc.); • replacement or upgrade of equipment 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 authorised to communicate officially with Infomaniak. These people must be included in the user accounts of the

Infomaniak Administration Console and have management rights to the Service concerned by this document. The contact persons assess the priorities on open tickets. Infomaniak may require an authentication process for security reasons.

8.3.2 Contact persons at Infomaniak The Customer can contact support during Business 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 Traceability and logs • Application level change traceability system ; • Traceability of access to the system by Infomaniak employees; • Server logs are kept for at least one week.

8.4.2 Safety measures • Daily preventive backup in a second datacenter managed by Infomaniak • 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 on each site, one or more servers are always available quickly in case of need (failures, etc.). Infomaniak cannot be held responsible in the event of unavailability due to force majeure (see below) as well as in the event of a shortage of raw materials or stock shortages at suppliers; • 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 must inform the other party by registered letter as soon as it becomes aware of the event. This does not commit the other party to accepting or contesting the allegations of force majeure. In cases of force majeure, the client may immediately terminate the contract at any time.

## Article 9 - Privacy Policy

9.1 Full details of the Privacy Policy can be found on the website <https://www.infomaniak.com/fr/cgv/politique-de-confidentialite>.

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