

Unmanaged 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).

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 article.

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 The Customer is informed that Infomaniak's intervention within the framework of the subscription of a contract relating to the Server is limited to the provision of the material and network resources necessary for the Server, without any control or guarantee over the use made of the resources, or over the content stored on the service.

4.3 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.

4.4 Infomaniak will be fully liable to the Customer for proven direct damage or damage caused by deliberate intent or gross negligence on its part. However, Infomaniak cannot be held responsible in the event of : • Fault, negligence, omission or default of the Customer ; • Fault, negligence or omission of a third party over which Infomaniak has no control; • Force majeure, event or incident beyond the control of Infomaniak ; • Discontinuation of the Service for any reason referred to by Infomaniak for failure to comply with this Contract and/or the GCU; • Partial or total destruction of the information transmitted or stored as a result of errors attributable directly or indirectly to the Client; • Misuse of the services by the Customer or its Clients; • Total or partial non-compliance with an obligation and/or failure of the operators of the transport networks to the Internet world and in particular the Internet Service Providers (ISPs);

4.5 Infomaniak reserves the right to interrupt or limit its services to the Customer in order to carry out a technical intervention with the aim of improving its operation.

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 installation of applications/scripts that could compromise the normal function or security of the network is not allowed. In particular, the execution of the following processes is not allowed: a) file sharing services (Peer-to-Peer software) ; b) bruteforce Programs/Scripts/Applications ; c) mail Bombs/Spam Scripts ; d) bots, Bouncer, IRC Services ; e) port scanning (sniffing, spoofing...) ; f) any activity of any kind related to the mining of cryptocurrencies; g) contentious behaviour such as peering (Hitleap, Jingling); h) black Hat SEO (downloading and reuploading videos on online video platforms, among others); i) the provision of unboxing services aimed at enabling largescale downloading on file hosting platforms; j) setting up of digital relays ; This list is not exhaustive and in case of doubt, it is the responsibility of the Customer, before installing an application/script, to check whether the activation is authorised by Infomaniak.

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

Article 6 - Data backup

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

6.2 Infomaniak does not make any backups of Client data, except if the Client activates the snapshot slot from the Administration Console.

6.3 The Customer is solely responsible for the integrity, preservation and backup of his data. This responsibility remains valid even if the Customer uses a backup function or functionality from Infomaniak, such as, for example, Swiss Backup or kDrive.

6.4 The Customer 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.

6.5 Any termination, whether due to non-payment or voluntary or involuntary action on the part of the Customer, will result in the immediate, definitive and irrecoverable deletion of all data

contained on the Server. The Customer shall take care to proceed to the prior repatriation of all his data in the event of early and voluntary termination.

Article 7 - Service Level Agreements (SLAs)

7.1 Service Level Agreements

7.1.1 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 for the product: 99.99%.

7.1.2 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.

7.1.3 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	Effects	Interruption time
A	Unavailability of the service	5 minutes
A2	Additional minutes of unavailability of A	1 minute
B	Slowdown of the internet network	60 minutes
C	Service security problem	60 minutes
D	Failure of one of the customer's virtual servers	120 minutes

7.1.4 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 class	Occurrence(s) per year	Percentage of current contract amount
A 1	10%	
A2	Not applicable	1%
A 2	20%	
A 3	30%	
A 4	50%	
with possible breach of contract 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.

7.1.5 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;

7.2 Resolving system errors and failures

7.2.1 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.

7.2.2 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.

7.2.3 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 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.

7.2.4 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.

7.2.5 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.

7.3 Communication

7.3.1 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.

7.3.2 Contact person at Infomaniak The Customer can contact support during Business Hours.

7.3.3 Communications from the client 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.

7.3.4 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.

7.4 Safety

7.4.1 Principle Infomaniak undertakes to comply at all times with the provisions set out in the whole of the "Security" article.

7.4.2 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 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;

7.5 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 8 - Privacy Policy

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

