

## Registry-Registrar Agreement

.OVH

This Registry-Registrar Agreement (hereinafter the "Agreement") is between OVH SAS, a French simplified joint-stock company, with its principal place of business located at 2 rue Kellermann in Roubaix, 59100, FRANCE (hereinafter the "Registry ") represented by Mr Henryk Klabka, its President, duly authorized for the purposes hereof, and [Registrar's name], a [jurisdiction and type of organization], with its principal place of business located at ..... [Registrar's location] (hereinafter the "Registrar").

The Registry and Registrar may be referred to individually as a "Party" and collectively as the "Parties".

**WHEREAS**, the Registry has entered a Registry Agreement with the Internet Corporation for Assigned Names and Numbers to operate a shared registration system, TLD nameservers, and other equipment for the .OVH top-level domain (".OVH TLD");

**WHEREAS**, multiple registrars will provide Internet domain name registration services within the .OVH TLD;

**WHEREAS**, Registrar wishes to act as a registrar for domain names within the .OVH TLD.

NOW, THEREFORE, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Registry and Registrar, intending to be legally bound, hereby agree as follows:

### **Article 1. Definitions**

**Affiliate:** means a person or entity that, directly or indirectly, through one or more intermediaries, or in combination with one or more other persons or entities, controls, is controlled by, or is under common control with the person or entity specified.

**APIs:** are the application program interfaces by which Registrar may interact, through the EPP, with the Registry System.

**Confidential Information** means all information and materials, including, without limitation, computer software, data, information, databases, protocols, reference implementation and documentation, functional and interface specifications, provided by the disclosing Party to the receiving Party under this Agreement and marked or otherwise identified as Confidential, whether written or oral.

**DNS** means the Internet domain name system.

**Effective Date** means the date on which this Agreement is first signed by both Parties.

**EPP** means the extensible provisioning protocol, which is the protocol used by the Registry System.

**ICANN** means the Internet Corporation for Assigned Names and Numbers.

**ICANN Requirements** consist of the obligations set forth in the Registry Agreement, the obligations set forth in the latest version (including additional appendices) of the ICANN Registrar Accreditation Agreement, any ICANN Temporary Specifications or Policies and Consensus Policies (as defined in the Registry Agreement), including, without limitation, the latest versions, of policies identified at <http://www.icann.org/general/consensus-policies.htm>.

**Personal Data** refers to a data relating to a living individual who is or can be identified either from the data or in conjunction with other information that is in, or is likely to come into, the possession of the data controller.

**Registered Name** refers to a domain name within the domain of the .OVH TLD, whether consisting of two or more levels (e.g., eric.dupont.OVH), about which the Registry or an affiliate engaged in providing Registry Services maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance. A name in a Registry Database may be a Registered Name even though it does not appear in a TLD zone file (e.g., a registered but inactive name).

**Registrant** means the holder of a Registered Name.

**Registry Agreement** means the Registry Agreement between the Registry and ICANN dated November 16<sup>th</sup>, 2013 for the operation of the .OVH TLD, as the same may be amended from time to time.

**Registry Database** means a database comprised of data about one or more DNS domain names within the domain of the .OVH TLD that is used to generate either DNS resource records that are published authoritatively or responses to domain-name availability lookup requests or WHOIS queries, for some or all of those names.

**Registry Policies** include those policies, procedures, guidelines, and criteria promulgated by the Registry from time to time, as authorized by ICANN in the Registry Agreement, including without limitation, such policies laid down by the Registry from time to time on the Registry's website, which are incorporated herein by reference, i.e the Abuse and Anti-Abuse Policy, the Privacy and Whois Policy, the Naming Policy, the Reserved Name Policy, the Sunrise Policy and the Sunrise Dispute Resolution Policy. Registrar must review those policies as they form part of this Agreement. Registry will provide Registrar with thirty (30) days prior written notice of any changes to the Registry Policies.

**Registry Service Provider** means the third party listed in Exhibit B hereto, contractually bound to operate the .OVH TLD technical infrastructure, including without limitation the Registry System and Registry Database, and provide the Registry Services to third parties, on behalf of the Registry.

**Registry Services** are all the services the Registry is entitled to provide under the Registry Agreement.

**Registry System** means the registry system operated by the Registry for Registered Names in the .OVH TLD.

**Reseller** means a third-party company that offers domain name registration services through a registrar but is not necessarily ICANN-accredited registrars.

**Term** means the term of this Agreement, as set forth in Subsection 9.1.

**TLD** means a top-level domain of the DNS.

Other terms used in this Agreement and in the Registry Policies as defined terms shall have the meanings ascribed to them in the context in which they are defined.

## **Article 2. Obligations of the Registry**

### **Article 2.1. Access to Registry System**

Throughout the term of this Agreement, the Registry shall provide Registrar with unencumbered access as a registrar to the Registry System that Registry Service Provider operates on behalf of the Registry, according to its arrangements with ICANN. Nothing in this Agreement entitles Registrar to enforce any agreement between the Registry and ICANN.

### **Article 2.2. Maintenance of Registrations Sponsored by Registrar**

Subject to the provisions of this Agreement, ICANN requirements, and Registry requirements authorized by ICANN, the Registry shall maintain the registrations of Registered Names sponsored by Registrar in the Registry System during the term for which Registrar has paid the fees required by article 4.

### **Article 2.3 Changes to System**

The Registry or Registry Service Provider may from time to time make modifications to the EPP, APIs, or other software provided by Registry Service Provider pursuant to this Agreement, that will revise or augment the features of the Registry System. The Registry will provide Registrar with reasonable notice prior to the implementation of any material changes to the EPP, APIs or software provided by Registry Service Provider pursuant to this Agreement.

Registrar shall use its best efforts to implement the new features and the Registry shall not be held liable in case of a failure in the said implementation by the Registrar.

### **Article 2.4 Engineering and Customer Service Support**

During the Term of this Agreement, the Registry, through its Registry Service Provider, will provide 24/7/365 telephone and e-mail customer service support to Registrar (but not to Registrants or prospective customers of Registrar), for engineering and other issues solely relating to the Registry System and its operation. The Registry will provide Registrar with detailed contact information for such support of the EPP, APIs and Software.

### **Article 2.5 Handling of Personal Data**

In addition to the Whois and Privacy Policy, the Registry shall notify Registrar of the purposes for which Personal Data submitted to the Registry by Registrar is collected and the intended recipients (or categories of recipients) of such Personal Data. The Registry shall take reasonable steps to protect Personal Data from loss, misuse, unauthorized disclosure, alteration or destruction. The Registry shall not use or authorize the use of Personal Data in a way that is incompatible with the notice provided to Registrar. The Registry may from time to time use the demographic data collected for statistical analysis or other business purposes, provided that this use will not disclose individual Personal Data and provided such use is compatible with the notices provided to registrars.

regarding the purpose and procedures for such use. For the avoidance of doubt, the provisions of this paragraph do not apply to publicly available information.

#### **Article 2.6. Service Level Agreement**

The Registry shall use commercially reasonable efforts to obligate its Registry Service Provider to meet the performance specifications set forth in Specification 10 to the Registry Agreement.

The Registry is committed to the respect of a business continuity, involving a maintenance of the service in the event of an extraordinary event beyond the control of the Registry or any business failure.

#### **Article 2.7 ICANN Requirements**

The Registry's obligations hereunder are subject to modification at any time as a result of ICANN-mandated requirements and consensus policies. Notwithstanding anything in this Agreement to the contrary, Registrar shall comply with any such ICANN requirements and shall require any Registrant to comply with such requirements in accordance with the timeline defined by ICANN. Registrar shall inform without delay about any impossibility or possible delays in the execution of the ICANN requirements.

#### **Article 2.8. New Registry Services**

The Registry shall provide Registrar no less than ninety (90) days written notice of any new Registry Service that has been approved by ICANN according to the procedures set forth in the applicable Registry Agreement by and between ICANN and the Registry. Such notice shall include the provision of information on pricing, starting date and any additional terms and conditions regarding the new Registry Service. Such notice shall not be a substitute for the notice required in Section 2.3 above.

#### **Article 2.9. Zone Files**

The Registry will make available to Registrar, at least twice per day, an updated list of unavailable domain names. The Registry will cause Registry Service Provider to upload an updated zone file to the Centralized Zone Data Access at least daily.

#### **Article 2.10. Price List**

The Registry will provide a current pricelist of all domains available to be registered that do not have standard pricing, including, registration, renewal, transfer and redemption pricing, along with the Registry tier name, if applicable.

### **Article 3. Obligations of Registrar**

#### **Article 3.1. Accredited Registrar**

During the term of this Agreement, Registrar shall maintain in full force and effect its accreditation by ICANN as a registrar for the .OVH TLD.

#### **Article 3.2. Registrar Responsibility for Customer Support**

Registrar shall at a minimum provide (i) support to accept orders for registration, cancellation, modification, renewal, deletion, redemption or transfer of Registered Names and (ii) customer

service and billing and technical support to Registrant.

### **Article 3.3. Registrar's Registration Agreement**

At all times while it is sponsoring the registration of any Registered Name within the Registry System, Registrar shall have in effect an electronic or paper registration agreement which may be amended from time to time by the Registrar, but which shall be consistent with the Registrar's obligations to the Registry under the Agreement.

### **Article 3.4. Compliance with Terms and Conditions**

Registrar shall comply with each of the following requirements, and further shall include in its registration agreement with each Registrant, as applicable, an obligation for such Registrant to comply with each of the following requirements: (i) ICANN standards, policies, procedures, and practices for which the Registry has monitoring responsibility in accordance with the Registry Agreement or other arrangement with ICANN; and (ii) Operational standards, policies, procedures, and practices for the .OVH TLD established from time to time by the Registry. Any additional or revised Registry operational standards, policies, procedures, and practices for the .OVH TLD shall be effective upon thirty (30) days notice by the Registry to Registrar. If there is a discrepancy between the terms required by this Agreement and the terms of the Registrar's registration agreement, the terms of this Agreement shall supersede those of the Registrar's registration agreement.

The Registry shall send to the Registrar a reminder of all the said obligations once a month in order to ensure of the compliance with terms and conditions to the Agreement.

Generally speaking, the Registrar undertakes to inform the Registry of any difficulty in the implementation of the said requirements and shall use its best efforts to ensure of its compliance to the terms and conditions.

### **Article 3.5. Indemnification Required of Registrant**

In its registration agreement with each Registrant, Registrar shall require such Registrant to indemnify, defend and hold harmless the Registry, and its subcontractors, directors, officers, employees, affiliates and agents of each of them from and against any and all claims, damages, liabilities, costs and expenses, including reasonable legal fees and expenses, arising out of or relating to the Registrant domain name registration. The registration agreement shall further require this indemnification obligation survive the termination or expiration of the registration agreement.

### **Article 3.6. Additional Requirements for Registration Agreement**

In addition to the provisions of the previous Subsections, in its registration agreement with each Registrant, Registrar shall require such Registrant to:

- Consent to the use, copying, distribution, publication, modification and other processing of the Registrant's Personal Data by the Registry and its designees and agents in a manner consistent with the purposes specified herein, current ICANN policies, and with relevant mandatory local data protection and privacy laws and regulations ;
- Consent to the collection and use of Personal Data by the Registry, in conformity with the terms of this Agreement and the Registry Agreement, and applicable law;
- Submit to proceedings commenced under ICANN's Uniform Domain Name Dispute

Resolution Policy (“UDRP”) and Uniform Rapid Suspension System (“URS”);

- Correct and update the registration information for the Registered Name during the registration term for the Registered Name;
- Agree to be bound by the terms and conditions of the initial launch of the Registry TLD, including the sunrise period, and the Registry Policies, and further to acknowledge that the Registry has no liability of any kind for any loss or liability resulting from the proceedings and processes relating to the sunrise period, including, without limitation: (a) the ability or inability of a Registrant to obtain a Registered Name during this period, and (b) the results of any dispute over a sunrise registration;
- Abstain from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activities contrary to applicable law;
- Acknowledge and agree that the Registry reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, suspension or similar status, that it deems necessary, in its discretion: (1) to protect the integrity and stability of the Registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to comply with any applicable ICANN rules or regulations, including without limitation, the Registry Agreement; (4) to avoid any liability, civil or criminal, on the part of the Registry, as well as its affiliates, subsidiaries, officers, directors, and employees; (5) per the terms of the registration agreement; (6) following an occurrence of any of the prohibited activities described in the Abuse and Anti-Abuse Policy; or (7) to correct mistakes made by the Registry or any Registrar in connection with a domain name registration. The Registry also reserves the right to place upon registry lock, hold or similar status a domain name during resolution of a dispute; the Registry will provide Registrar notice of any cancellation, transfers or changes made to any registration by the Registry not initiated by the Registrar.
- Submit to proceedings commenced under other dispute policies as set forth by the Registry from time to time in the Registry Policies, including but not limited to processes for suspension of a domain name intellectual property rights holders, Internet engineering and security experts or other competent claimants for the purpose of upholding the security, stability and integrity of the .OVH Registry; and
- Include the following provision, in the language of the agreement signed with Registrant: “Notwithstanding anything in this agreement to the contrary, OVH SAS, the Registry of the .OVH TLD, is and shall be an intended third party beneficiary of this agreement. As such the Parties to this agreement acknowledge and agree that the third party beneficiary rights of the Registry have vested and that the Registry has relied on its third party beneficiary rights under this Agreement in agreeing to [Registrar’s name] being a registrar for the .OVH TLD. Additionally, the third party beneficiary rights of the Registry shall survive any termination of this Agreement.”

### **Article 3.7. Data Submission Requirements**

As part of its registration and sponsorship of Registered Names in the .OVH TLD, Registrar shall submit complete data as required by technical specifications of the Registry System that are made available to Registrar from time to time. Registrar hereby grants The Registry a non-exclusive, non-transferable, limited license to such data for propagation of and the provision of authorized access to the TLD zone files and as otherwise required for the Registry's operation of the .OVH TLD. Registrar shall submit any corrections or updates from a Registrant relating to the registration information for a Registered Name to the Registry in a timely manner.

### **Article 3.8. Security**

Registrar shall develop and employ in its domain name registration business all necessary technology and restrictions to ensure that its connection to the Registry System is secure. All data exchanged between Registrar's system and the Registry System shall be protected to avoid unintended disclosure of information. Registrar agrees to employ the necessary measures to prevent its access to the Registry System granted hereunder from being used to (1) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than its own existing customers; or (2) enable high volume, automated, electronic processes that send queries or data to the systems of The Registry, any other registry operated under an agreement with ICANN, or any ICANN-accredited registrar, except as reasonably necessary to register domain names or modify existing registrations.

Each session wherein Registrar accesses the Registry System shall be authenticated and encrypted using two-way secure socket layer ("SSL") protocol. The Registry will accept a certificate for SSL connections. At a minimum, Registrar shall authenticate every client connection with the Registry System using both an X.509 server certificate issued by the Registry Service Provider and its Registrar password. Registrar shall disclose only its Registrar password to its employees with a need to know. Registrar agrees to notify The Registry within twenty four (24) hours of learning that its Registrar password has been compromised in any way or if its server certificate has been revoked by the issuing certification authority or compromised in any way.

Registrar shall not provide identical Registrar-generated authorization <authinfo> codes for domain names registered by different Registrants with the same Registrar. The Registry in its sole discretion may choose to modify <authinfo> codes for a given domain and shall notify the Registrar of such modifications within 300 seconds of modification. Documentation of these mechanisms shall be made available to Registrar by The Registry. The Registrar shall provide the Registrant with timely access to the authorization code along with the ability to modify the authorization code. Registrar shall respond to any inquiry by a Registrant regarding access to and/or modification of an authorization code within five (5) days.

### **Article 3.9. Resolution of Technical Problems**

Registrar shall employ necessary employees, contractors, or agents with sufficient technical training and experience to respond to and fix all technical problems concerning the use of the EPP and the APIs in conjunction with Registrar's systems. Registrar agrees that in the event of significant degradation of the System or other emergency, The Registry may, in its sole discretion, temporarily suspend or restrict access to the Registry System. Except in the case of an emergency, the Registry will provide advance notice via email and phone call to Registrar's technical contact. Such temporary suspensions shall be applied in a non-arbitrary manner and shall apply fairly to any registrar similarly situated, including affiliates of The Registry.

### **Article 3.10. Time**

Registrar agrees that in the event of any dispute concerning the time of the entry of a domain name registration into the Registry Database, the time shown in the Registry records shall prevail.

### **Article 3.11. Transfer of Sponsorship of Registrations**

Registrar agrees to implement transfers of Registered Name registrations from another registrar to

Registrar and from Registrar to another registrar pursuant to the Policy on Transfer of Registrations Between Registrars as may be amended from time to time by ICANN (the "Transfer Policy"). Within two (2) weeks after each Registry TLD general availability, the Registry will allow and support bulk transfer to Registrar, without extension of the registration term, and The Registry will reimburse Registrar for fees incurred under the Transfer Policy.

#### **Article 3.12. Restrictions on Registered Names**

In addition to complying with ICANN standards, policies, procedures, and practices limiting domain names that may be registered, Registrar agrees to comply with applicable statutes, regulations and Registry Policies limiting the domain names that may be registered.

#### **Article 3.13. Reserved Names**

Except to the extent that ICANN otherwise expressly authorizes in writing, the Registry is obliged to comply with the requirements set forth in specification 5 of the Registry Agreement. The Registry reserves the right to withhold from registration or allocate to the Registry any label or name (including their IDN variants where applicable) within the TLD as mentioned in the Reserved and Blocked Names Policy. The Registry may at any time establish or modify policies concerning the Registry's ability to reserve or block additional character strings within the TLD at its discretion. The Registry reserves the right to reserve any and all domain names, regardless of whether there is an existing trademark associated with the name as determined by the ICANN designated Trademark Clearinghouse (hereinafter "TMCH").

### **Article 4. Fees**

#### **Article 4.1. Amount of Registry Fees**

Registrar agrees to pay the Registry or its designee in accordance with the fee schedule set forth in Exhibit A for initial and renewal registrations and other services provided by Registry Operator to Registrar (hereinafter the "Fees"). The Registry reserves the right, from time to time, with thirty (30) days prior written notice, to modify the Fees in a manner consistent with ICANN policies and Registry Policies.

In addition, Registrar agrees to pay the Registry or its designee the applicable variable Registry-Level fees assessed to Registry Operator by ICANN, by no later thirty (30) days after the date of an invoice from the Registry for such fees.

#### **Article 4.2. Payment of Registry Fees**

Within thirty (30) days after the end of each month, without receipt of invoice or any other request for payment by the Registry, Registrar shall remit all Fees for the previous month. A failure to remit the Fees within thirty (30) days of when the Fees are due shall be deemed a material breach of this Agreement. Additionally, any late Fees shall bear interest at the greater of the rate of one percent (1%) per month or the maximum rate allowed by law.

All taxes, duties, fees, and other governmental or financial institution charges of any kind (including sales, turnover, service, use and value-added taxes, but excluding taxes based on the net income of the Registry, and wire transfer fees) which are imposed by or under the authority of any government or any political subdivision thereof, or financial institution, on the fees for any services, software, and/or hardware shall be borne by the Registrar and shall not be considered a part of, a deduction from, or an offset against such Registration Fees. All payments due to the Registry shall be made



without any deduction or withholding on account of any tax, duty, charge, or penalty except as required by law, in which case, the sum payable by the Registrar from which such deduction or withholding is to be made shall be increased to the extent necessary to ensure that, after making such deduction or withholding, the Registry receives and retains (free from any liability with respect thereof) a net sum equal to the sum it would have received but for such deduction or withholding being required.

## **Article 5. Confidentiality and intellectual property**

### **Article 5.1. Use of Confidential Information**

During the Term of this Agreement, each Party (hereinafter “the Disclosing Party”) may be required to disclose its Confidential Information to the other Party (hereinafter “the Receiving Party”). Each Party's use and disclosure of the Confidential Information of the other Party shall be subject to the following terms and conditions.

The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the confidentiality of all Confidential Information of the Disclosing Party, including implementing reasonable physical security measures and operating procedures.

The Receiving Party agrees that it will use any Confidential Information of the Disclosing Party solely for the purpose of exercising its right or performing its obligations under this Agreement and for no other purposes whatsoever.

Except as expressly contemplated hereunder, the Receiving Party shall make no disclosures whatsoever of any Confidential Information of the Disclosing Party to others; provided, however, that if the Receiving Party is a corporation, partnership, or similar entity, disclosure is permitted to the Receiving Party's officers, employees, contractors and agents who have a demonstrable need to know such Confidential Information, provided the Receiving Party shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality.

The Receiving Party shall not modify or remove any confidentiality legends and/or copyright notices appearing on any Confidential Information of the Disclosing Party.

The Receiving Party agrees not to prepare any derivative works based on the Confidential Information.

Notwithstanding the foregoing, this Subsection 5.1 imposes no obligation upon the Parties with respect to information that (a) is disclosed with the Disclosing Party's prior and written approval; or (b) is or has entered the public domain through no fault of the Receiving Party; or (c) is known by the Receiving Party prior to the time of disclosure; or (d) is independently developed by the Receiving Party without use of the Confidential Information; (e) is made generally available by the Disclosing Party without restriction on disclosure or (f) is required by law, regulation or court order.

The Receiving Party agrees to cooperate with Disclosing Party if the Disclosing Party is required by law, regulation or court order to disclose any of disclosing Party's Confidential Information.

The Receiving Party's duties under this Subsection 5.1 shall expire three (3) years after the termination of the Agreement. Upon expiration or termination, or at the Disclosing Party's request, the receiving Party will return or, if the restitution is impossible, destroy Confidential Information in the Receiving Party's possession.

## **Article 5.2. Intellectual Property**

Subject to the licenses granted hereunder, each Party will continue to independently own its intellectual property, including all patents, trademarks, trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property. In addition, the Registry or its suppliers and/or licensees, including without limitation its Registry Service Provider, shall own all right, title and interest in and to the EPP, APIs, and any software incorporated into the Registry System.

The Registry grants to Registrar a non-exclusive, non-transferable, worldwide limited license to use the Registry's name and logo in order to identify itself as an accredited registrar. A graphical charter will be provided to the Registrar at the latest when signing the Agreement.

Except as provided in this subsection, Registrar shall not use the trademarks, any term, phrase, or design which would be confusingly similar or which might negatively affect the Registry image. Registrar will be able to link to specified pages and/or documents within the Registry website.

Registrar shall not sublicense any of its rights under this article to any other person or entity without the Registry prior and written approval and shall not decompile, reverse engineer, copy or re-engineer the Registry product for any unauthorized purpose.

## **Article 6. Indemnities and limitation of liabilities**

### **Article 6.1. Indemnification**

Registrar, at its own expense and after presentation of a demand by the Registry under this Section, will indemnify, defend and hold harmless the Registry and its employees, directors, officers, representatives, agents and affiliates, against any claim, suit, action, or other proceeding brought against the Registry or any affiliate of the Registry based on or arising from any claim or alleged claim: (i) relating to any product or service of Registrar; (ii) relating to any agreement, including Registrar's dispute policy, with any Registrant of Registrar; (iii) relating to registrar's violation of ICANN requirements; (iv) as a result of Registrar's failures to include adequate provisions in its Registration Agreement pursuant to Section 3 above to hold a Registrant liable for impermissible conduct, or (v) relating to Registrar's domain name registration business, including, but not limited to, Registrar's advertising, domain name application process, systems and other processes, fees charged, billing practices and customer service. Registrar will not enter into any settlement or compromise of any such indemnifiable claim without Registry Operator's prior written consent, which consent shall not be unreasonably withheld. Registrar will pay any and all costs, damages, and expenses when incurred, including, but not limited to, reasonable attorneys' fees and costs awarded against or otherwise incurred by Registry Operator in connection with or arising from any such indemnifiable claim, suit, action or proceeding.

### **Article 6.2. Limitation of Liability**

IN NO EVENT SHALL THE REGISTRY BE LIABLE TO REGISTRAR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES FOR ANY VIOLATIONS OF THIS AGREEMENT. IN ADDITION, EXCEPT FOR A BREACH OF SECTION 5 OR THE INDEMNIFICATION OBLIGATIONS IN SECTION 6, IN NO EVENT SHALL THE REGISTRY'S LIABILITY EXCEED THE LESSER OF (I) THE AMOUNT OF FEES PAID OR PAYABLE BY REGISTRAR TO REGISTRY OPERATOR, EXCLUDING ANY FEES PAID UNDER SECTION 4.1 ABOVE, IN THE PRECEDING TWELVE (12) MONTH PERIOD OR (II)

€100,000.

### **Article 6.3 Force majeure**

Neither Party shall be liable to the other for any loss or damage resulting from any cause beyond its reasonable control including, but not limited to, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either Party's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, and acts or omissions of persons for whom neither Party is responsible.

Upon occurrence of a force majeure event and to the extent such occurrence interferes with either Party's performance of this Agreement, such Party shall be excused from performance of its obligations (other than payment obligations) during thirty (30) days after receipt of a letter with acknowledgment of receipt, provided that such Party uses best efforts to avoid or remove such causes of nonperformance as soon as possible. Once the deadline expired, Registry will be entitled to terminate the Agreement without any further formalities.

### **Article 6.4. Disclaimer of Warranties**

ALL ITEMS (EPP, API, SOFTWARE...) PROVIDED BY THE REGISTRY HEREUNDER ARE PROVIDED "AS-IS" AND WITHOUT ANY WARRANTY OF ANY KIND. THE REGISTRY EXPRESSLY DISCLAIMS ALL WARRANTIES AND/OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY OR SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. FURTHERMORE, THE REGISTRY DOES NOT WARRANT NOR MAKE ANY REPRESENTATIONS REGARDING THE CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE OF ANY ITEMS PROVIDED BY THE REGISTRY HEREUNDER.

### **Article 6.5. Reservation of Rights**

The Registry reserves the right to deny, cancel or transfer any registration or transaction, or place any domain name(s) on registry lock, hold, suspension or similar status, that it deems necessary, in its discretion: (1) to protect the integrity and stability of the Registry; (2) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (3) to comply with any applicable ICANN rules or regulations, including without limitation, the Registry Agreement; (4) to avoid any liability, civil or criminal, on the part of the Registry, as well as its affiliates, subsidiaries, officers, directors, and employees; (5) for violations of this Agreement; (6) following an occurrence of any of the prohibited activities described in Abuse use and Anti-Abuse Policy; or (7) to correct mistakes made by the Registry or any Registrar in connection with a domain name registration. The Registry also reserves the right to freeze a Registered Name, including without limitation, placing a Registered Name on hold, lock, or other status, during the resolution of any dispute or in order to comply with Registry Policies.

### **Article 7. Insurance**

Registrar shall acquire, on or before the Effective Date, at least One Million Euros (€1,000,000) in comprehensive general liability insurance from a reputable insurance and shall maintain insurance meeting these requirements throughout the Term of this Agreement. Registrar shall provide a

certificate of insurance to the Registry, current as of the Effective Date, upon the Registry's reasonable request.

#### **Article 8. Dispute resolution**

This Agreement is to be construed in accordance with and governed by the laws of France and the Parties expressly submit to the Commercial Court of Lille Métropole (59), FRANCE .

#### **Article 9. Term and termination**

##### **Article 9.1. Term of the Agreement; Revisions.**

The Term of this Agreement shall commence on the Effective Date and, unless earlier terminated in accordance with the provisions of this Agreement, shall expire one (1) year after the Effective Date. The Term of this Agreement shall automatically renew for one (1) additional year period unless either Party provides notice to the other of termination, in writing by letter with acknowledgment of receipt, at least thirty (30) days prior to the end of the initial or any renewal Term.

In the event that revisions to the Registry's approved form of Registry-Registrar Agreement are approved or adopted by ICANN, Registrar will either execute an amendment substituting the revised agreement in place of this Agreement or, at its option exercised within thirty (30) days after receiving notice of such amendment, terminate this Agreement immediately by giving written notice (by letter with acknowledgement of receipt) to the Registry. In the event that the Registry does not receive such executed amendment or notice of termination from Registrar within such thirty (30) day period, the Registry will be entitled to terminate the Agreement, informing the Registrar by letter with acknowledgment of receipt.

##### **Article 9.2. Termination**

This Agreement may be terminated as follows:

- Termination For Cause. In the event that either party materially breaches any of its obligations under this Agreement and such breach is not substantially cured within thirty (30) calendar days after written notice thereof is given by the other party (by letter with acknowledgment of receipt), then the non-breaching party may, by giving written notice thereof to the other party (by letter with acknowledgment of receipt), terminate this Agreement as of the date specified in such notice of termination.
- Termination Upon Loss of Registrar's Accreditation. This Agreement shall immediately terminate in the event Registrar's accreditation by ICANN is terminated or expires without renewal without any formality being required.
- Termination in the Event of Termination of Registry Agreement. This Agreement shall immediately terminate in the event that the Registry Agreement with ICANN is terminated or expires without entry of a subsequent Registry Agreement with ICANN and this Agreement is not assigned. In such cases, no further formality should be required.
- Termination in the Event of Insolvency or Bankruptcy. Either party may terminate this Agreement if the other party is adjudged insolvent or bankrupt, or if proceedings are instituted by or against a party seeking relief, reorganization or arrangement under any laws relating to insolvency, or seeking any assignment for the benefit of creditors, or seeking the appointment of a receiver, liquidator or trustee of a party's property or assets or the liquidation, dissolution or winding up of a party's business.

### **Article 9.3. Effect of Termination**

Upon the expiration or termination of this Agreement for any reason:

- The Registry will complete the registration of all domain names processed by Registrar prior to the effective date of such expiration or termination, provided that Registrar's payments to the Registry for Fees are current and timely.
- Registrar shall immediately transfer its sponsorship of Registered Names to another ICANN-accredited registrar in compliance with any procedures established or approved by ICANN.
- All Confidential Information of the Disclosing Party in the possession of the Receiving Party shall be immediately returned to the Disclosing Party or shall be destroyed if the restitution is impossible
- All Fees owing to the Registry shall become immediately due and payable.

### **Article 9.4. Survival**

In the event of termination of this Agreement, the following shall survive: (i) Subsections 2.5, 3.5, 5.1, 5.2, 6.1, 8, 9.2.3, 9.3, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, and 10.13 and (ii) the Registrant's indemnification obligation under Subsection 3.5. Neither Party shall be liable to the other for damages of any sort resulting solely from terminating this Agreement in accordance with its terms.

### **Article 10. Miscellaneous provisions**

#### **Article 10.1. Assignments/Sublicense**

##### 10.1.1. Assignment in Connection with Assignment of Agreement with ICANN

In the event that the Registry Agreement for the .OVH TLD is validly assigned, the Registry's rights under this Agreement shall be automatically assigned to the assignee of the Registry Agreement, provided that the assignee assumes the duties of the Registry under this Agreement. In the event that Registrar's accreditation agreement with ICANN for the .OVH TLD is validly assigned, Registrar's rights under this Agreement shall be automatically assigned to the assignee of the accreditation agreement, provided that the subsequent registrar assumes the duties of Registrar under this Agreement.

##### 10.1.2. Other Assignments

Except as otherwise expressly provided in this Agreement, the provisions of this Agreement shall inure to the benefit of and be binding upon, the successors and permitted assigns of the Parties. Neither Party shall assign or transfer its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld.

#### **Article 10.2. Notices**

Any notice or other communication required or permitted to be delivered to any Party under this Agreement shall be in writing and shall be deemed properly delivered, given and received when delivered (by hand, by registered mail, by facsimile, by postal) to the address or telecopier number set forth beneath the name of such Party below, unless Party has given a notice of a change of address in writing:

If to Registrar:

[enter Registrar address]

**If to Registry Operator:**

OVH SAS  
Legal Department  
2 rue Kellermann  
59100 ROUBAIX  
FRANCE

Tél: +33(0)320827332  
Fax: +33(0)320200958  
Mail: legal@ovh.net

**Article 10.3. Representations and Warranties**

Registrar represents and warrants that: (1) it is a corporation duly incorporated, validly existing and in good standing under the law of its jurisdiction of formation or organization, (2) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (3) it is at the Effective date and will continue to be, accredited by ICANN or its successor, (4) it is a signatory to the 2013 Registrar Accreditation Agreement or a subsequent Registrar Accreditation Agreement as may be approved from time to time by ICANN, (5) the execution, performance and delivery of this Agreement has been duly authorized by Registrar, (6) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by Registrar in order for it to enter into and perform its obligations under this Agreement.

The Registry represents and warrants that: (1) it is a corporation duly incorporated, validly existing and in good standing under the law of its jurisdiction of formation or organization, (2) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement, (3) the performance and delivery of this Agreement has been duly authorized by Registry Operator, (4) no further approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by the Registry in order for it to enter into and perform its obligations under this Agreement.

**Article 10.4. Third-Party Beneficiaries**

The Parties expressly agree that ICANN is an intended third-party beneficiary of this Agreement. Otherwise, this Agreement shall not be construed to create any obligation by either Party to any non-party to this Agreement, including any holder of a Registered Name. Registrar acknowledges that nothing in this Agreement, including those requirements in this Agreement that incorporate the Registry Agreement, shall confer upon Registrar the status of an intended third-party beneficiary to the Registry Agreement.

**Article 10.5 Relationship of the Parties**

Nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the Parties.

**Article 10.6. Amendments**

Except as otherwise provided herein, no amendment, supplement, or modification of this Agreement or any provision hereof shall be binding unless executed in writing by both Parties.

#### **Article 10.7. Waivers**

No failure on the part of either Party to exercise any power, right, privilege or remedy under this Agreement, and no delay on the part of either Party in exercising any power, right, privilege or remedy under this Agreement, shall operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise or waiver of any such power, right, privilege or remedy shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Neither Party shall be deemed to have waived any claim arising out of this Agreement, or any power, right, privilege or remedy under this Agreement, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of such Party; and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

#### **Article 10.8. Severability**

In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement which shall remain in full force and effect.

#### **Article 10.9. Further Assurances**

Each Party hereto shall execute and/or cause to be delivered to each other Party hereto such instruments and other documents, and shall take such other actions, as such other Party may reasonably request for the purpose of carrying out or evidencing any of the transactions contemplated by this Agreement.

#### **Article 10.10. Entire Agreement**

This Agreement (including its exhibits and any documents incorporated by reference, which form a part of it) constitutes the entire agreement between the Parties concerning the subject matter of this Agreement and supersedes any prior agreements, representations, statements, negotiations, discussions, understandings, proposals or undertakings, whether oral or written, between the Parties, on that subject.

#### **Article 10.11. Language**

The language of the Agreement is English. In case of inconstancy between English version and other translated versions, English version shall prevail.

#### **Article 10.12. Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

#### **Article 10.13. Governing law**

The Agreement, and any dispute, controversy, proceedings of whatever nature shall be governed by and construed in accordance with French law.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth in the first paragraph hereof.

OVH SAS Date: By: Mr Henryk KLABA Title: President	Registrar Date: By: Title:
Signature:	Signature:



**Exhibit A. Registry Service Provider**

The Registry's Registry Service Provider is **AFNIC (Association Française pour le Nommage Internet en Coopération)**.