

# GENERAL TERMS AND CONDITIONS

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## 1. DEFINITIONS

Capitalized terms used herein, whether in the singular or plural, shall have the meanings ascribed to them below or in the Contract:

Access information	Any information provided by Ikoula and enabling the Customer to connect to his/her Customer Area and access his/her Services
Business Days	Every Day from Monday to Friday, except national public Holidays
Business Hours	From 8.00 am to 8.00 pm non-stop every Business Day
Commissioning Certificate	Email sent by Ikoula to the Customer informing the latter that the Services are accessible and operational
Contract	The Order Form, these General Terms and Conditions, the Personal Data Protection Agreement, and the Special Terms and Conditions of Sale
Customer	Any individual of legal age or any legal entity
Customer Area	Customer private area accessible online through the Ikoula Website, at the addresses provided by Ikoula
Customer Data (or Data)	All data, personal or otherwise, whatever its nature, software also being Data within the meaning of this definition, that the Customer stores, processes or executes thanks to the Resources
Days	Calendar Days, all Days are expressed in calendar Days unless otherwise specified
Equipment	Any equipment or hardware enabling access to the Services, which must be installed at the Location by the Customer or by Ikoula depending on the Service subscribed to
General Terms and Conditions	This document
Incident	Refers to any malfunction of the Service(s) recorded thanks to the creation of a Ticket
Location	The designated area within the Premises where the Equipment will be kept for the Contract duration, which area may be modified following written notification from Ikoula
Order Form	Document issued by Ikoula specifying the Services subscribed by the Customer by any means, including online. They constitute an indissociable whole with the rest of the contractual documents, as listed in the definition of "Contract"
Parties	Ikoula and the Customer
Premises or Data Centre	Any physical space managed by Ikoula hosting the technical resources (and servers in particular) enabling the Services to be made available
Resource	Any component, hardware or software, enabling access to or use of computing, processing and data storage capabilities, or constituting these capabilities. The various Resources may be servers, server components (memory, storage), bandwidth, electricity, etc.
Service	Refers to the Services marketed by Ikoula listed in the Order Form and described in the Special Terms and Conditions and on the Website
Software	Software, software packages, databases, scripts, operating systems made available to the Customer by Ikoula and/or by their respective publishers as part of the Service, as listed in the Order Form
Technical Support	Designates the Ikoula support teams
Third-party Contractual Conditions	The contractual terms and conditions of Services marketed through Ikoula but published or sold by third parties
Third-party Services	Services and, where applicable, Equipment supplied by third parties, in particular by third-party software publishers
Ticket	Refers to the procedure initiated by the Customer or on behalf of the Customer when reporting an Incident (Incident Ticket) or any other technical request. Each Ticket can be identified by a unique number in order to facilitate its follow-up ("Ticket number") in the Customer Area
Users	Customer or any other person(s) accessing or using the Services (including access to or use of any products configured within the Services), under the Customer's responsibility
Website	The Ikoula Website and its versions existing in the various countries where Ikoula markets its Services

## 2. OBJECT

The purpose of these General Terms and Conditions is to define the conditions under which Ikoula provides the Services and Equipment in return for payment of the price specified on the Order Form.

## 3. CONTRACTUAL DOCUMENTS

The contractual documents are in descending order of priority:

- the Order Form(s),
- the Special Terms and Conditions,
- the present General Terms and Conditions,
- the Personal Data Protection Agreement.

Together, they form the Contract. In the event of any contradiction between the various documents, the higher-level document shall prevail for the obligation in question.

If the Parties agree to make changes to the contractual documentation when the Contract is concluded, the Parties have agreed to do so in Appendix 2 "Derogatory Conditions", which will take precedence over all the contractual documents mentioned above, except for the Order Form, which will remain superior.

Ikoula may change all the documents making up the Contract, in particular these General Terms and Conditions, the Personal Data Protection Agreement, and the Special Terms and Conditions, the new version of which is published within the Customer Area. The Customer will be notified electronically when a new version of these documents comes into force.

The Customer is hereby informed that subscription to or use of the Services after the entry into force of the new version(s) of the documents implies acceptance thereof. These new versions apply automatically to all Services previously subscribed to by the Customer to ensure a uniform contractual package for all Services.

In addition to the Contract which applies to the relationship between Ikoula and the Customer, the Customer is informed that the use of Third-party Services is subject to the Customer's acceptance of the contractual conditions applicable to each of the Services concerned, which also include some limitations, available by following the link <https://www.ikoula.com/en/cgst> or on request to Ikoula. If the publisher of a Third-party Service does not appear at the previously mentioned URL, the Customer must ask Ikoula to send the missing documentation.

## 4. CUSTOMER'S OBLIGATIONS

### 4.1. DUTY TO PROVIDE INFORMATION

The contact details provided by the Customer must be accurate.

The Customer agrees to maintain a valid contact email address and postal address so that Ikoula can send invoices, reminders and any information relating to the Services, as well as a permanent means of payment. Information is updated on the Customer Area using the login, password and second authentication factor chosen by the Customer and in force at the time of the first connection to the Customer Area.

The Customer acknowledges having received from Ikoula all the necessary information enabling her/him to take all the necessary precautions for the implementation and use of the Services.

Ikoula may not be held liable for any consequences that the Customer and/or third parties may suffer in the case where the Customer has failed to notify Ikoula of any modification. In particular, the Customer may not hold Ikoula responsible for any prejudice resulting from a cut in Service resulting from an invoice or a reminder notice which has not been received and paid due to an invalid, inaccessible or unavailable email address.

### 4.2. DUTY OF COOPERATION

The Customer has a general duty of cooperation towards Ikoula, including in particular:

- (i) the communication to Ikoula of any information necessary for Ikoula to fulfil its obligations,
- (ii) the obligation to keep up to date all information enabling Ikoula to contact her/him (email, telephone, postal address) as well as the means of payment he/she has chosen.

The Customer undertakes to designate, where applicable, from the date of signature of the Contract, a technical contact responsible for relations with Ikoula in order to ensure the proper execution of the Contract.  
The Customer undertakes to pay all sums due to Ikoula in accordance with the terms of the Contract.

The Customer acknowledges that he/she has the hardware, software, skills and, where applicable, the staff required to use the Service. He/she hereby guarantees that he/she will use the Service in accordance with its specifications without this use causing damage to the Equipment supplied by Ikoula.

The Customer undertakes not to use the Services made available by Ikoula in the context of an activity subject to authorization without obtaining such authorization first. The Customer declares that he/she is personally responsible for these formalities and authorizations. Evidence of the necessary authorizations will be provided to Ikoula on request.

If the Customer is planning to launch a marketing or communication operation, an audit on his/her systems hosted by Ikoula, or any other operation likely to cause a significant increase in the consumption of Resources (bandwidth, memory or computing), this is the Customer's responsibility, as part of his/her duty to cooperate, to inform Ikoula prior to the launch of the said operation, within a reasonable period of time, in particular to avoid this sudden increase in activity being analyzed as a security anomaly and leading to a possible temporary suspension of Services.

#### 4.3. OBLIGATION OF REASONABLE USE

The Customer undertakes to make a reasonable use in good faith of the Resources made available for her/him by Ikoula.

Such use must in all circumstances comply with the regulations in force and with the Customer's business and corporate purpose (hereinafter a "Reasonable Use").

The Customer therefore refrains from any activity that would result in unreasonable use of the Equipment underlying the Services provided. This includes, but is not limited to, any activity that would result in premature deterioration of the storage devices (in particular hard disks) made directly or indirectly available to the Customer and activities involving the crypto mining of virtual currencies.

More generally, any use of the Resources made available by Ikoula that may disrupt the proper operation of the Services and the Ikoula infrastructure, as well as the Resources of other customers, is deemed to be unreasonable use.

### 5. DURATION OF THE CONTRACTUAL COMMITMENT

#### 5.1. DURATION OF THE CONTRACT

The Contract is concluded from the date of signature for an undefined period which will expire when the Customer ceases to use Ikoula's Services.

#### 5.2. DURATION OF THE SERVICE(S)

Each Service is subscribed to for the period indicated on the Order Form.

This period begins when the Commissioning Certificate is sent.

The agreed duration of period is fixed and the Service may only be renewed upon express request of the Customer.

When the Service is tacitly renewable, this is specified in the Order Form and the renewal period begins on the anniversary date of the Commissioning Certificate sent by Ikoula.

#### 5.3. SPECIFIC CASE OF PREPAID SUBSCRIBED SERVICES

When a Service is subscribed to on a monthly basis, the Customer receives, fifteen (15) days before the end of the month, a notification on her/his Interface reminding him of the need to pay the invoice for the renewal of the Service, if she/he wishes to benefit from it. If the Customer pays the invoice within this period, the Service is automatically reactivated.

If payment is not received within the time limit, the Customer will be informed by e-mail that the Service will be suspended within three (3) days.

However, the Service will remain suspended and will be permanently interrupted after a period of one (1) month without payment.

## 6. WITHDRAWAL

Customers who are consumers within the meaning of the initial article of the French Consumer Code, as well as professionals who conclude Contracts with Ikoula that meet the three (3) cumulative conditions described in article L.221-3 of the French Consumer Code, are entitled to request withdrawal.

As a result, in accordance with article L.221-18 of the French Consumer Code, the Customer has a period of fourteen (14) Days to exercise his/her right of withdrawal from a distance contract, following telephone or off-premises canvassing.

The Customer must exercise his/her right of withdrawal before the expiry of the previously mentioned period - either from his/her Customer Area thanks to the form provided for this purpose, or by completing and sending to Ikoula the withdrawal form below or any other unambiguous statement expressing his/her wish to withdraw by e-mail. The withdrawal form reproduced below is available at the following link: [https://www.ikoula.com/retractation\\_en.html](https://www.ikoula.com/retractation_en.html)

To the attention of Ikoula, SAS, 2 cité Paradis - 75010 Paris ([support@ikoula.com](mailto:support@ikoula.com))

I/We (\*) hereby notify you (\*) of my/our (\*) withdrawal from the contract for the sale of the goods (\*) / for the provision of the Services (\*) below:

Ordered on (\*) / received on (\*) :

Name of consumer(s) :

Address of consumer(s) :

Signature of the consumer(s) (only if notifying this form on paper):

Date :

(\*) Delete as appropriate

The right of withdrawal, if properly exercised, entitles the Customer to be refunded for the Equipment and Services concerned (except for the additional charges applicable to non-standard delivery Services, if the Customer selects a Service that is more expensive than the basic offer). As a rule, the refund will be made using the original means of payment.

The Customer may not exercise his/her right of withdrawal in the cases provided for in article L.221-28 of the French Consumer Code, especially for goods made according to the consumer's specifications or clearly personalized, as well as in cases where the Services are fully executed before the end of the withdrawal period. This will be the case, in particular, when booking domain names through the services of Ikoula (in the sense that Ikoula has to bear the costs of third parties in order to book domain names, which cannot be refunded to Ikoula).

## 7. SERVICES

### 7.1. DESCRIPTION OF SERVICES

The Services are detailed in the Order Form as well as on the Website and in the Special Terms and Conditions.

The Customer is reminded that the Services are subject to limitations and restrictions, depending on the Services subscribed to, which are inherent to the technologies subscribed to or subject to specific restrictions (volume of electricity consumed, capability of servers to run software, for example). The Customer is invited to contact Ikoula by any means in the event of doubt or question.

The Customer shall take note of the options and ranges of Services available in order to select Services suited to its needs. In particular, the Customer ensures that the Services are adapted to the legal and regulatory requirements applicable to the activities carried out in the context of the use of the Services, and in particular in the event that he/she hosts personal data (in which case the Customer is invited to consult the [GDPR page](#) accessible from the homepage of the Website).

If the Customer uses Third-party Services, the Customer accepts, by this use, the Third-party Contractual Conditions

applicable to the Third-party Services, and undertakes to comply fully with the content of said conditions and hereby guarantees Ikoula in this regard.

The Customer also expressly acknowledges that he/she has all the technical skills, or that he/she is being supported by an IT professional, to implement and operate the Services provided by Ikoula and to ensure, throughout the whole duration of their contractual relationship, that the Services and their specifications will remain, even in the event of developments of these Services, in line with his/her needs and objectives, in particular in terms of security.

Lastly, the Customer acknowledges that he/she has full knowledge of the laws, regulations and requirements applicable to his/her business both in his/her country of establishment and in the countries in which he/she carries out his/her business. He/she irrevocably undertakes to comply with them, including any future developments, and, where applicable, to ensure compliance with these obligations by all his/her contractors, successors in title or assigns. In particular, the Customer is responsible for carrying out the formalities, declarations and requests for authorization required by the laws and regulations in force and applicable to her/him.

## 7.2. HOW SERVICES ARE PROVIDED

Ikoula provides, within the framework of an obligation of means, all the care and diligence necessary to provide the Service in accordance with the Order Forms, these General Terms and Conditions, and any Special Terms and Conditions applicable.

Ikoula provides all the connections required for the Services, 24 hours a day and 7 days a week, subject to maintenance periods and any possible breakdowns, within the framework of an availability rate specified in the applicable Service levels, said availability rate not taking into account maintenance periods.

For Services including a managed services level, the availability rate may be different, subject to an agreement concluded between the Parties, the said availability rate then being specified in the Service levels communicated by Ikoula.

In addition, Ikoula undertakes to meet the technical obligations required by network operators, and to maintain the good condition of the Equipment under its control.

Ikoula does not guarantee that the Services will be uninterrupted, error-free, or totally secure.

## 7.3. SERVICE QUALITY COMMITMENTS

Ikoula offers different service levels described in the Special Terms and Conditions (hereinafter the "SLAs").

Application of the SLAs assumes that the Customer complies with a certain number of conditions, and in particular that the Customer complies with the obligations defined in the Special Terms and Conditions.

It is understood that scheduled maintenance operations will be deducted from downtime.

Will be also excluded from downtime any intervention aiming at protecting the Customer Data or the infrastructure against a major risk such as a critical security vulnerability, a cyber-attack or any other event having the characteristics of force majeure as specified in article 20 hereof.

The Customer will have a period of thirty (30) Days from the end of the period in question to notify Ikoula of the application of the penalties.

The Client must attach to his/her declaration the calculation showing that Ikoula has failed to meet its Service quality commitments over the period in question.

If the Customer has properly demonstrated Ikoula's failings, he/she will benefit from a credit on the price of the Services, valid during a period of 1 (one) year.

In the case where the Customer does not claim the penalties after the previously mentioned period, this will be deemed to be a definitive waiver of the Customer's notified reservations, which will be deemed never to have existed.

It is agreed between the Parties that any period during which the Customer, for the purposes of resolving the Incident:

- does not cooperate with Ikoula,
- does not provide the relevant information reasonably required in his/her possession,

- does not carry out the tests requested by Ikoula, or any period during which access to the User's premises has been refused to Ikoula or its subcontractors,

will not be taken into account for the calculation of service quality commitments.

In addition, any Incident resulting from a case of force majeure, due to the action of the Customer and/or the User, or due to the actions of a third party, does not constitute an Incident and will therefore not be taken into account for the calculation of the SLAs, nor will it engage the liability of Ikoula.

The Customer may, in case Ikoula fails to comply with the SLAs, and provided the previously mentioned limits are not exceeded, claim the payment of lump sum penalties, definitive and in full discharge of liabilities, if applicable, as specified in the Special Terms and Conditions.

Compensation for SLA-related penalties is in full discharge of obligations and is limited as stipulated in the Special Terms and Conditions.

As the penalties provided for are lump-sum, definitive and in full discharge of the Customer's liabilities, they exclude any other right or claim that the Customer may make against Ikoula.

#### 7.4. SERVICE DELIVERY

Once the Customer's order is complete and validated by Ikoula, Ikoula will deliver the agreed Services within the estimated deadlines specified on the Order Form and, in the absence of any specification on the Order Form, as soon as possible, provided that the Customer has paid his/her first invoice in accordance with article 12 of the present Terms and Conditions.

The Customer is notified of the delivery of Services by the sending of the Commissioning Certificate, which is sent to him/her by e-mail.

#### 7.5. ACCESS TO THE CUSTOMER AREA AND SERVICES

##### 7.5.1. ACCES TO THE CUSTOMER AREA

The access to the Customer Area via the Internet is protected by a username (login) and password chosen by the Customer when subscribing to the Services. The Customer must change the login and password provided by Ikoula.

The Customer will have to choose between the following options to receive his/her second authentication factor: notification by SMS on his/her mobile phone, notification by email on his/her account email address, or, and this is the solution recommended by Ikoula, the use of a dedicated third-party TOTP application of his/her choice, and compatible, on his/her mobile device.

The Client is responsible for his/her username (login), password and second authentication factor. These are strictly confidential and Ikoula shall not be held responsible for any illicit or fraudulent use. Any intentional or unintentional disclosure of the username and/or password chosen by the Customer is the exclusive responsibility of the Customer, to the exclusion of Ikoula.

##### 7.5.2. ACCES TO SERVICE(S)

For some Services, Ikoula may need to communicate Access Information by e-mail. In this case, the Customer must change the said Access information provided by this means.

As a result, the Customer alone shall bear the consequences of the malfunctioning of his/her Services following use by a third party (a member of his/her staff or a third party to whom the Customer has provided his/her username and/or password, or in the event of the Customer being hacked). The Customer alone shall bear the consequences of the loss, theft and/or fraudulent use of the username and/or password, especially in the case he/she can no longer access his/her Data as a result, without being able to claim any damages whatsoever from Ikoula. In the event of loss, theft, or usurpation of his/her second authentication factor, the Customer shall immediately inform Ikoula so that the associated access can be suspended.



## 7.6. INSTALLATION OF SOFTWARE, APPLICATIONS, WEBSITES OR CONTENT ON THE SERVICES

The Customer is the sole party responsible for software and any other element downloaded and/or installed on Ikoula Services.

If these lead to any degradation, disruption of Service or to the need for partial or complete reinstallation of the Service, the Customer will be the sole party responsible and Ikoula shall not be held liable. In this case, the interruption of the Service will not entitle the Customer to any claim, refund or damage.

## 7.7. SERVICES DEVELOPMENT INITIATED BY IKOULA

As part of the continuous improvement of their Services and in order to be able to adapt to changes in their industry, Ikoula may make changes, adaptations or developments to their Services at any time, provided that these modifications do not substantially compromise the nature or quality of the Services subscribed to by the Customer, and without any impact on the associated prices.

In particular, the following are considered as non-substantial modifications: updating software, bringing systems into compliance, changing the data traffic network, relocating the server hosting location, replacing Equipment with equivalent or superior Equipment of a different brand or model.

When the evolution or removal concerns electronic communication Services, Ikoula will implement the resulting contractual modifications in accordance with the conditions stipulated in article L.224-33 of the French Consumer Code.

For other Services and Equipment that are subject to a substantial evolution (and in particular if it leads to a price increase) or withdrawal, Ikoula will inform the Customer with one (1) months' notice, and will make all reasonable efforts to offer a substitute solution where appropriate. If the Customer does not object within the previously mentioned period of one (1) month, the Customer will be deemed to have agreed to the evolution or withdrawal of the Service and/or Equipment.

In all cases, it is hereby clarified that the terms of the previous paragraphs do not apply when the envisaged modifications are all exclusively for the benefit of the Customer, or are urgently required for security or safety reasons, or are strictly for administrative purposes and have no negative impact on the Customer, or arise directly from the applicable legislation for which the Customer will not have the possibility of refusing and cancelling the relevant Services.

## 7.8. ASSISTANCE

For all of the Services covered herein, the Customer has access to online support via the FAQ section, the form available on Ikoula's Website, or by e-mail or telephone.

Technical Support contact details :

- By telephone: +33 184 010 250
- By e-mail: support@ikoula.com
- Via an online portal: <https://extranet.ikoula.com>

During Ikoula's Business Days and Hours, Ikoula's Technical Support will deal with Incidents declared by the Customer or detected by Ikoula where applicable affecting the Services (hereinafter referred to indistinctly as the "Incident Notification"), without any guarantee as to the time taken to solve the Incidents.

For some Services, and when specified in the Special Terms and Conditions for that particular Service, the Customer may benefit from additional services and guarantees.

Ikoula's assistance regarding the use of Services does not fall within the scope of Technical Support. If requested by the Customer, Ikoula will submit an additional quote for this purpose. For an additional cost, the Customer can also request access to 24 x 7 x 365 Technical Support, subject to quote.

## 8. EQUIPMENT

### 8.1. EQUIPMENT BELONGING TO THE CUSTOMER AND HOSTED WITHIN THE PREMISES OF IKOULA

The Customer commits to maintaining its Equipment at a level that guarantees that, at any time, it does not present any risk and complies with all health and safety standards, and in particular electrical safety standards.

The Customer commits to allowing access to his/her Equipment, and to providing the necessary authorizations to enable Ikoula, where applicable, to carry out any obligations required under the Contract.

Under no circumstances are the Customer, his/her staff or subcontractors authorized to connect any of the Customer's Equipment to Equipment belonging to Ikoula or hosted by Ikoula but not belonging to the Customer, or even to disconnect them from the said systems, without the prior and explicit written consent of Ikoula.

The Customer, his/her staff, subcontractors, and representatives commit to not examining or interfering with the various Ikoula's systems located on the premises.

The Customer is not authorized to make any modification or alteration whatsoever to the Premises, racks, storage facilities, accessories or any other installation provided by Ikoula.

The Customer commits to keeping the area of the Premises where the Equipment is located as clean and tidy as necessary, not to bringing into the Premises or storing flammable products, to clearing the area of any debris or waste that may be present, and not to blocking the doors or hindering access to them.

## 8.2. ACCESS TO THE PREMISES GIVEN TO THE CUSTOMER

The Customer must not use any part of the Premises for any purpose other than the Location of his/her Equipment and the operation of his/her business.

During the Contract performance, the Customer commits to keep the allocated area and its installations in good condition, and at the end of the Contract, to return them in their original condition, excluding normal wear and tear.

The Customer commits not to act in the Premises in a way that would infringe any health, safety, security regulations, etc., or that would result in Ikoula not complying with their obligations.

In the Premises, the Customer commits not to act in a way that is dangerous or prejudicial to other Customers.

Upon written request by the Customer to [support@ikoula.com](mailto:support@ikoula.com), accepted in writing by Ikoula by email, Ikoula may authorize the Customer to access the Premises at specific time slots communicated by Ikoula in order to carry out the necessary maintenance and/or repair operations on the Equipment that Ikoula is not required to provide as part of the Services. In the event of a genuine emergency, Ikoula will do the utmost to allow the Customer access to the Premises, without being able to guarantee such a request.

If urgent maintenance and/or repair work is required, the Customer shall inform Ikoula as soon as possible, considering the particular circumstances (and the Customer acknowledges and agrees that immediate access may not be possible depending on the circumstances).

If this maintenance and/or repair work requires the Equipment to be disconnected and/or connected to Ikoula's infrastructure, an Ikoula technician will be required to carry out these operations. These operations will be invoiced to the Customer on the basis of an Order Form accepted and signed by the Customer. No service can be provided without acceptance of the Order Form.

However, Ikoula reserves the right to refuse access to the Premises if:

- the person fails to prove to Ikoula that he/she is duly authorized to do so,
- Ikoula legitimately considers that the person should not be authorized to access the Premises for health or safety reasons (whether they are duly authorized to enter the Premises or not),
- the person wishing to access the Premises refuses to undergo the necessary checks (including checking of devices or hardware, ensuring the absence of flammable elements or any element likely to cause damage to the Data Centres and machines).

Ikoula commits to ensuring that the area allocated to the hosting and operation of the Customer's Equipment has an air-conditioning system, a stable humidity level, a fire extinction system, a security system, a power supply system and adequate lighting.

The Customer assumes all risks relating to the Equipment at all times and is responsible for insuring his/her Equipment accordingly.

### 8.3. SALE OF EQUIPMENT

The Equipment for sale is covered by a manufacturer's warranty.

Ikoula transfers full ownership of the Equipment once the Customer has paid the full price of the Equipment. However, the risks are transferred to the Customer upon delivery.

The Customer shall not be able to pledge or assign as a guarantee the ownership of the Equipment sold by Ikoula until the price has been fully paid.

Maintenance of the Equipment is provided throughout the whole duration of the Service as follows:

- in the event of a hardware failure on Equipment, Ikoula will apply the manufacturer's warranty where it is still applicable and will replace the Equipment.

After the warranty has expired, Ikoula will offer to repair or replace the Equipment by a manufacturer's after-sales service, based on a quote.

### 8.4. EQUIPEMENT LEASING

Ikoula or their Suppliers offer the Customer various pieces of Equipment for leasing. In the event that the Customer takes this option, the price of the leased Equipment is included in the price of recurring Services.

Ikoula ensures the maintenance of the Equipment (excluding power cords, wires, plugs and batteries and other accessories) provided that the Customer makes normal use of them.

The Customer assumes the inherent obligations of a keeper of the Equipment from the time the Equipment is delivered until it is taken back by Ikoula or its Supplier.

Ikoula or the Supplier remain the owners of the leased Equipment. Consequently, the Customer shall not undertake any act of disposal and must ensure that any act infringing Ikoula's property rights is not carried out and, where applicable, must inform Ikoula of any infringement of their rights.

In particular, in the event of an attempted seizure or opening of receivership or liquidation proceedings, the Customer must immediately inform Ikoula, raise any claim against the seizure and take all measures to have Ikoula's right of ownership recognized.

The Equipment is leased for the entire period of execution of the Service to which it is attached (initial period and renewal period(s)). Therefore, in the event that the Customer terminates the Service to which the leased Equipment is attached, the Customer must return the said Equipment in proper operating condition at the same time as the termination of the Service takes effect, in accordance with the conditions stipulated in Article 8.5.

The Customer is informed that if the Service is terminated during the first commitment period or during a renewal period, the Customer undertakes to pay all the remaining monthly instalments relating to the Service until the end of the current commitment period.

### 8.5. RETURN OF LEASED EQUIPMENT

Upon termination of the Service(s) for any reason whatsoever, Ikoula may ask the Customer to return the Equipment associated with said Service(s). The Customer must then uninstall and return the Equipment at his/her own expense. The Customer will receive return shipping labels in order to return the Equipment to Ikoula.

If the Customer fails to return the leased Equipment, or if the Equipment is not returned in good working order, within thirty (30) Days following the termination of the Contract, the Customer will have to pay a penalty corresponding to the replacement value of the Equipment(s) concerned or, if the Equipment is no longer on the market, at the current rate at the time of the start of the leasing period.

In the event of termination of a Service(s), the retrieval of the Equipment housed at Ikoula's Data Centres will be conditioned to full settlement of the outstanding sums payable for the hosting service. No release of hardware or material will be authorized until the invoices issued in consideration of the Contract have been paid.

## 8.6. WHAT HAPPENS TO THE EQUIPMENT IF THE CONTRACT EXPIRES OR IS TERMINATED FOR ANY REASON WHATSOEVER AND THE CUSTOMER HAS PAID ALL DUE SUMS

Within ten (10) Days following the termination of the Contract, Ikoula will reasonably help the Customer to recover his/her own Equipment, and the Customer must, for his/her part, remove all of his/her Equipment and any other belongings installed in Ikoula's Premises and return the Location to Ikoula free of any occupation of material or hardware, in the state it was prior to the installation of his/her Equipment by the Customer.

Otherwise, Ikoula may, after receipt by the Customer or after first presentation of a formal notice by e-mail that has remained ineffective after 8 Days, at Ikoula's choice and at the Customer's expense, have the Equipment removed and put in storage, return the Equipment to the Customer, or dispose of it, without the Customer being able to engage Ikoula's liability in this respect. Furthermore, Ikoula reserves the right to retain said Equipment until full payment for the Services has been made.

## 8.7. STOCK

Ikoula provides indicative information on the state of its available stock of dedicated servers on the online sales site. The stock displayed is therefore only indicative and is in no way a guarantee of availability. The availability of the equipment will only be confirmed once the order has been validated.

## 9. PRICE OF SERVICES

The price of the Services corresponds to the total amount specified on the Order Form or on the summary page in the case of orders placed on the Website.

Prices are in euros and are exclusive of VAT and any other taxes that may apply in addition.

## 10. CHANGES IN PRICES OF SERVICES

At the end of the initial commitment period, Ikoula may revise upwards, on each Contract anniversary date, the prices charged using the following formula:

$$P1 = P0 \times \frac{S1}{S0}$$

P1: revised price

P0: original Contract price

S0: SYNTEC reference index used on the original Contract date

S1: latest index published on the review date

In the event of the suppression of the above-mentioned index, the Parties agree to substitute it with an equivalent index. Should the Parties fail to reach an agreement, the most diligent Party will refer the matter to the President of the Paris commercial Court for a summary ruling to resolve the disagreement and designate a substitute index.

In the event of an increase in the price of energy by Ikoula's suppliers, and beyond the initial commitment period, Ikoula may also apply this increase to the relevant Services subscribed to by the Customer. This increase in the price of energy will be notified to the Customer and will come into effect with the next invoicing.

## 11. REVISION OF PRICES FOR THIRD-PARTY SERVICES

Should Ikoula supply Third-party Services (software, database engines, etc.) listed on the Order Form or specified on the Website (or in any other term or appendix of the Contract), the price of these Third-party Services may be revised proportionally to the increase made by the publisher and/or reseller of said Services.

This increase will be applied to the next agreed billing cycle according to the billing period chosen by the Customer.

If any Third-party Services disappear or are significantly modified, Ikoula will follow and apply the publisher's recommendations.

## 12. SERVICES INVOICING

Regardless of the Service(s) and duration subscribed to, and unless otherwise stipulated in the Order Form, the Services and set-up costs are payable monthly in arrears.

## 13. INVOICES PAYMENT METHOD

Unless otherwise stipulated in the Order Form, the first invoice is due when the Customer subscribes to the Services.

For the following months, invoices are due twenty (20) Days from the date of invoicing.

The Customer is responsible for the effective payment of Ikoula invoices on their due date; to this end, he/she must, in particular, keep his/her bank and invoicing details up to date, as well as sufficient funds in his/her bank account, unless he/she runs the risk of suspension of Services and, where applicable, termination of these Terms and Conditions.

The Parties agree that Ikoula may send invoices electronically.

The default method of payment will be SEPA direct debit, credit card (Visa, Mastercard) or bank transfer (all bank fees being assumed by the Customer).

Payments by bank transfer must be received by Ikoula at least one week before the end of the current period.

Payments must be made in Euros only.

All due sums to be paid in accordance with the Contract do not include current taxes, which will be charged in addition and at the Customer's expense.

## 14. RIGHT OF RETENTION

If the Customer contests the amount invoiced by Ikoula in a way that is not legitimate and duly justified, Ikoula may exercise a right of retention, within the meaning of article 2286 of the French Civil Code, on the Customer's Data, of any nature whatsoever, as well as on the Equipment, until full payment of the due sums.

## 15. DISPUTE REGARDING INVOICES

In the event of a dispute over an invoice, the Customer will only be able to suspend payments after a legitimate and motivated notification, sent by registered letter with confirmation of receipt to Ikoula, respecting a period of thirty (30) Days from the event giving rise to the dispute, which will be materialized by the opening of an Incident Ticket by Ikoula.

Furthermore, the Customer will only be able to legitimately dispute in this way the sums corresponding to the defaulting Services. If the invoice dispute does not prove to be legitimate and duly justified, the Customer will remain liable for the due sums in their totality, without prejudice to late payment interest and compensation for collection costs.

In case of a dispute over the amount of an invoice, the Parties agree that Ikoula's presentation of the communications, transactions or operations recorded on Ikoula's systems is deemed as authentic evidence between the Parties.

## 16. INFORMATION ABOUT THE DUE DATE AND THE PERIOD OF TIME FOR REGULARIZATION GRANTED TO THE CUSTOMER

In the event of non-payment of the Service by the Customer before the due date of the Service(s), where the latter are payable in advance, Ikoula will send an initial e-mail four (4) days before the end of the current commitment period.

In the event that the Customer has not paid the sums due, the automatic suspension of Services will become effective three (3) days after the end of the current commitment period, as indicated in article 5.3 hereof. The Services will be reactivated upon receipt of payment in full.

If payment is not received by the end of the three (3) day period, Ikoula will send emails one (1), five (5) and ten (10) days after the end of the initial commitment period. If, despite reminders, the Customer has not made payment, the Service will not be renewed, and all data will be automatically, securely and definitively deleted no later than thirty (30) days after the end of the initial subscription period.

## 17. SUSPENSION OF SERVICES

Depending on the circumstances, Ikoula reserves the right to suspend the Services immediately or with prior notice.

#### 17.1. IMMEDIATE SUSPENSION OF SERVICES:

- Should a governmental or judicial authority request Ikoula to suspend the Services;
- In the case of notification to the Hoster in accordance with article 21.2 hereof;
- Abnormal or fraudulent use of the Service by the Customer;
- Violation of the security of the Service, in particular as a result of hacking attempts by the Customer and/or a third party via the Customer;
- Use of the Services that does not comply with the terms and conditions specified in the Special Terms and Conditions.

Ikoula reserves the right to suspend immediately access to the Services subscribed to without the Customer being able to claim any compensation whatsoever. In all of the above-mentioned cases, the suspension of Services will not lead to the suspension of payments and invoicing due in respect of the Contract by the Customer.

#### 17.2. SUSPENSION OF SERVICES WITH NOTICE

In the event that the Customer does not pay for all or part of the Service within the time periods agreed in the financial conditions of the Contract and in accordance with article 16 hereof, i.e., after a reminder by e-mail has remained unsuccessful for a period of three (3) days.

Under no circumstances may the Customer claim any damages whatsoever as a result of this suspension, whatever the consequences. The suspension of Services does not put an end to the invoicing of the Services subscribed to by the Customer for the duration for which he/she is committed and remain due in full.

On receipt by Ikoula of payment of the sums due, the Services will be reactivated.

### 18. TERMINATION

As a preliminary point, the Customer will not be entitled to any refund from Ikoula of sums corresponding to Services already delivered by Ikoula.

Any request to terminate the Service(s) must be made by e-mail or via the Interface.

#### 18.1. EARLY TERMINATION OF A SERVICE BY THE CUSTOMER

In the event that the Customer terminates one or more Services during the current contractual commitment period, the Customer must pay Ikoula, by way of compensation, all sums due for the terminated Service(s) remaining under the current commitment period.

These early termination fees are calculated according to the number of months remaining until the end of the contractual commitment period multiplied by the amount of the recurring Services that would have been invoiced for the terminated Service(s).

The calculation of the sums due for the terminated Services begins on the date of acknowledgement of receipt of the email.

#### 18.2. TERMINATION OF THE CONTRACT

In the event that one of the Parties wishes to terminate all of the Services and therefore the Contract, either Party may terminate the Contract by notifying the other Party by e-mail.

Termination of the Contract will take effect three (3) months after the termination email is sent.

Customers who are consumers within the meaning of the introductory article of the French Consumer Code, as well as professionals who conclude Contracts with Ikoula that meet the three cumulative conditions of article L.221-3 of the French Consumer Code, have the option of terminating all of the Services, and consequently the Contract, from their Interface, provided that they supply all of the information required to identify the Contract to be terminated in accordance with Decree no. 2023-417 of 31 May 2023 relating to the technical procedures for terminating contracts by electronic means.

Termination of the Contract entails termination of all the Services subscribed to by the Customer on the effective date of termination and payment of the sums due, which become payable on the same date.

#### 18.3. TERMINATION FOR BREACHES

In the event of a sufficiently serious breach by one of the Parties of one of its essential obligations under the Contract, except in the event of force majeure, such as :

- Defects by Ikoula making it impossible to access the Service(s),
- Failure by Ikoula alone to deliver the Equipment;
- From the third day following the suspension of the Service(s) under the conditions of article 17;
- Failure by the Parties to fulfil their obligations relating to the transfer of the Contract, in accordance with the provisions of article 29.

The Party suffering the breach will have the option, fifteen (15) Days after a formal notice has remained without effect, to terminate the Services or, where applicable, the Contract, by sending a registered letter with acknowledgement of receipt.

These provisions do not apply to cases of force majeure.

In the event of default by the Customer as referred to above, the sums owed by the Customer shall be payable immediately, including any costs relating to termination and any recurring Services still owed.

#### **18.4. EFFETS OF TERMINATION OF THE CONTRACT FOR ANY REASON WHATSOEVER IF THE CUSTOMER HAS PAID ALL DUE SUMS**

Upon expiry or termination of the Contract:

- Ikoula will cease to provide the Services.
- All the Customer's payment obligations under the Contract, in particular the prices of recurring Services due until the end of the term indicated on the Purchase Order, will become immediately due and payable.

#### **18.5. EFFETS OF TERMINATION OF THE CONTRACT FOR ANY REASON WHATSOEVER IF THE CUSTOMER HAS NOT PAID ALL DUE SUMS**

If the Customer has not paid all due sums on expiration or termination of the Contract, Ikoula may:

Exercise a right of retention on the Customer's Data and Equipment, in accordance with these General Terms and Conditions, until full payment of the sums due by the Customer; or

At Ikoula's discretion and without the Customer being able to claim any compensation whatsoever, delete the Data or destroy the Equipment, if the Customer does not pay all due sums to Ikoula within a period of thirty (30) Days following the expiry or termination of the Contract.

Regardless of how the Contract is terminated, the provisions that are intended to remain in force (and in particular intellectual property, liability, applicable law, litigation, confidentiality) will continue to be applicable.

### **19. LIABILITIES**

#### **19.1. IKOULA'S LIABILITIES**

Ikoula's liability is limited to direct, real, personal and specific material damage suffered by the Customer and due to Ikoula's sole fault in the context of the Contract. More specifically, Ikoula cannot under any circumstances be held responsible for any damage suffered by a third party (with the exception of physical injury), nor for any indirect and/or immaterial damage suffered by the Customer, nor for any commercial loss or commercial disturbance whatsoever, loss of profit or of Customers, loss of turnover, loss of orders, loss of expected savings, operating loss, damage to brand image, loss of traffic, loss of Data, moral prejudice. The Customer must therefore take out his/her own insurance to cover this damage.

Under no circumstances can Ikoula be held responsible for the Data present on the Services, nor for the non-compliant use of the Services (including the use of any related functionality) by the Customer (including his/her staff) or by any third party. In particular, Ikoula may under no circumstances be held liable for damage resulting from breaches of the provisions of the French Penal Code, hacking and/or taking control of the Services, in particular hacking of any feature allowing remote access to the Services, by a third party not authorized by the Customer.

Ikoula may under no circumstances be held liable for any prejudice whatsoever arising from the deactivation of Services due to an event beyond Ikoula's control, due to illicit content or in case of default of payment by the Customer.



The Parties acknowledge and accept that, although they use anti-virus software, they cannot guarantee that the Services or transmissions between them will be virus-free. Ikoula may not be held liable in the event of malicious access to one of the Customer's Services or for hacking of one of the Customer's Services, despite all the security measures taken by Ikoula.

The Customer hereby waives, and undertakes to have his/her insurers waive, any action against Ikoula that exceeds the limits stipulated in the present article. In the event of a breach by Ikoula of their contractual obligations, the Customer has a period of one (1) year from the event giving rise to the breach or from knowledge of the breach, to engage Ikoula's liability, with the exception of actions that may be brought by Ikoula for default of payment, which are time-barred in accordance with common law.

Except in the case of gross negligence or wilful misconduct, where the direct liability of Ikoula is involved, the maximum amount that the Customer may claim, whatever the cause and regardless the damage are, is limited to the amount actually paid by the Customer to Ikoula during the last six (6) months or, in the case where the Contract has not been executed long enough, to the sums actually paid by the Customer to Ikoula.

Ikoula excludes all warranties not expressly stipulated in these General Terms and Conditions to the fullest extent permitted by French law.

## 19.2. CUSTOMER'S LIABILITY

The Customer acknowledges that she/he is solely responsible for:

- (i) The choice of Services and their suitability for the Customer's needs;
- (ii) The compliance with the scope of the rights granted and the conditions of use of the Services;
- (iii) The use of Services in accordance with their intended purpose;
- (iv) The security of his/her information system and the backup of his/her Data;
- (v) The skills and expertise of its staff;
- (vi) The legal or regulatory declarations and his/her own compliance with regulations concerning personal Data;
- (vii) The respect of laws and regulations.

Throughout the whole duration of the Contract, the Customer commits to backing up his/her Data on a regular basis. Before the Contract expires, the Customer shall ensure that his/her Data has been fully backed up, unless the Customer has entrusted Ikoula with the backup of his/her Data.

## 20. FORCE MAJEURE

No damages or penalties of any kind will be due if, as a result of force majeure as defined in article 1218 of the French Civil Code, one of the Parties is prevented from fulfilling one or more of its obligations.

The Parties will do their utmost to mitigate the effects of force majeure.

If a case of force majeure prevents either Party from performing any of their obligations under the Contract, apart from the Customer's payment obligation, for a period of more than sixty (60) Days, either Party may terminate the Service affected by the case of force majeure by registered letter with acknowledgement of receipt, without compensation for either Party.

The following events, in particular, are considered to be cases of force majeure (included but not limited to):

- natural disaster, pandemic, war, labor dispute, demonstration, fire, flood, storm, explosion,
- failure or disruption of the power supply affecting the network, interruption or malfunction of the Service due to a network outage attributable to a third party,
- suspension and/or degradation of the Service due to a third party, due to the Customer (including especially cases of Service interruption requested by the Customer), due to malfunction of the Customer's Equipment, circuits, applications, software, codes or hardware, or due to actions or inactions attributable to the Customer or one of his/her customers or suppliers,
- impossibility for a third party, after completing the necessary steps, to obtain an authorization required for the provision of a Service (e.g. road permission, permission from a local authority etc.) and the withdrawal or modification of such an authorization,
- legal restrictions on the provision of electronic communication Services,



- acts of terrorism and national emergencies.

## 21. COMPLIANCE WITH APPLICABLE LEGISLATION AND MANIFESTLY UNLAWFUL CONTENT

### 21.1. COMPLIANCE WITH APPLICABLE LEGISLATION

The Customer respects the applicable legislation and commits to complying with the laws in France and abroad which are already in force, or which will be in the future and with Internet usage, and in this respect, in particular, without this list being exhaustive:

- to comply with the laws governing audiovisual communication Services, the processing of personal Data, the protection of minors, respect for the human person, intellectual property, trademark law and patent law, electronic commerce, advertising, and generally to refrain from storing or diffusing Data of any kind that may constitute an infringement of the rights of a third party or a breach of a law in force,
- in particular, to not spam, i.e. send unsolicited commercial or advertising mail in bulk, or store or diffuse any Data of a violent, obscene or discriminatory nature, or incite racial or religious hatred, or engage in phishing or computer attacks of any kind whatsoever using the Ikoula Services,
- to take all necessary measures to ensure the protection of minors likely to use the Services. The use of these Services by a minor is carried out under the sole control and responsibility of the Customer. Ikoula hereby points out that the Customer must ensure the protection of minors who access his/her Services and websites, in accordance with the legislation and regulations in force, and that the content of hosted websites is in no way the responsibility of Ikoula,
- the hosting of websites implies the obligation for the Customer to be identifiable thanks to the mandatory legal notices in accordance with French Law no. 2004-575 of 21 June 2004 on confidence in the digital economy.

The Customer alone is liable for the editorial content of the websites he/she hosts on the Services. Under no circumstances shall Ikoula be held liable for the content hosted by the Customer on the Services, unless Ikoula is held liable under the conditions relating to the liability of the hosting company. It should be noted that all websites must have legal notices specifying, in particular, the identity of the website publisher and the contact details of the hosting company. In the event of non-compliance with one of these clauses, Ikoula reserves the right to close the Customer's website(s) without delay, in particular on the basis of French law 2004-575.

On this basis, Ikoula may therefore decide to suspend access to content reported as illegal, pending a final court decision.

The Customer guarantees Ikoula against all financial consequences that may result from his/her civil or criminal liability due to the presentation and content of any Data stored and/or distributed by the Customer from his/her website or the Customer's domain name(s) with regard to legislation throughout the world.

The Customer commits to intervene in any proceedings brought against Ikoula due to the presentation and content of the Data and/or domain name(s), in order to identify himself/herself as the sole and unique party responsible for this Data and domain name(s).

### 21.2. MANIFESTLY UNLAWFUL CONTENT

In the event of a complaint, claim, or notification in any form whatsoever to Ikoula relating to the Customer's actions on the Services and in particular the hosting of Data or a website, whatever they may be, as well as in the event that the Customer causes his/her identification details to disappear from the websites, Ikoula will be entitled to immediately and without notice suspend the connection to the Services, without this suspension giving the right to payment of any compensation whatsoever.

Considering that the Customer's Data is retained during this period and that it is impossible to reallocate the Resources to another Customer, the Customer will remain liable for all sums owed to Ikoula, as if the Services had not been suspended.

In such a case, the Customer remains free to terminate the Contract in accordance with these provisions. If, at the end of this suspension, a competent authority finds that the content is lawful, Ikoula will put the Services back online as quickly as possible.

If, on the other hand, the content is deemed illegal by the competent authorities, Ikoula may terminate the Contract and the Customer will be liable for all due sums in respect of invoicing already issued as well as invoicing to be issued until the expiry of the commitments in progress as a result of the termination to the exclusive prejudice of the Customer, without this preventing Ikoula from claiming damages intended to compensate for their entire loss.

### 21.3. SPECIFIC PROVISIONS FOR RESERVING DOMAIN NAMES

The Customer may ask Ikoula to reserve a domain name on his/her behalf, in which case the Customer is informed that each reservation is subject, depending on the extension (.com, .fr, .eu, etc.) to the contractual terms and conditions of the registrars concerned, said terms and conditions being provided upon request by the Customer.

When reserving domain names, Ikoula will communicate to the registrars concerned the Customer's Personal Data necessary for the registration of the domain name concerned, which the Customer acknowledges and accepts.

The Customer is the sole party responsible for the compliance with the law and regulations of the domain names he/she reserves, as Ikoula only acts as a technical intermediary: the actual reservation of a domain name does not guarantee the legality of the latter, of which the Customer remains the sole judge, particularly with regard to trademark law and intellectual property rules.

Ikoula shall not be held liable in the event of any failure on the part of the registrar to register the domain name, and in particular the unavailability of the registrar's information system, the failure of the registrar's systems, or any event beyond Ikoula's control that would prevent Ikoula from proceeding with the reservation of the domain name.

Once the domain name has been reserved, Ikoula will inform the Customer by email.

The Customer is the sole party responsible for renewing the domain name: Ikoula is not required under any circumstances to inform the Customer of the expiry of his/her domain name.

In the event that Ikoula succeeds in recovering a domain name even though the renewal was made late, Ikoula will invoice the late renewal fees, being reminded that despite Ikoula's best efforts, Ikoula may not be able to recover the domain name concerned.

The reservation of a domain name cannot give rise to a right of withdrawal, as Ikoula incurs costs which cannot be reimbursed if the Customer wishes to give up his/her domain name.

## 22. INSURANCE

The Parties declare that they are insured, with a solvent insurance company, to cover their responsibilities under the terms of the Contract. A copy of the insurance policy or letter covering the risks associated with the Contract may be requested. As far as Ikoula is concerned, this submission of the contract or cover letter will be made against refund of the costs inherent in this transmission, estimated at a flat rate of 50 euros excluding VAT.

The Customer must also take out an insurance policy covering civil liability, property damage and damage resulting from an interruption to the company's business. These insurance policies must run from the date on which the Contract comes into force until the necessary date to guarantee cover for all of the Customer's liabilities arising under the Contract which would generally be covered by insurance policies, regardless of the time of the claim invoking said liability. This insurance must be taken out with a public-renowned insurance company and include a waiver of subrogation in favour of Ikoula. The Customer agrees to provide Ikoula, on request, with sufficient proof of the existence of this insurance for the purposes of Ikoula's control.

## 23. DATA OWNERSHIP

The Customer is the owner of the Data of any kind stored and diffused on the Services. He/she guarantees Ikoula that he/she has all the necessary authorizations for their storage and diffusion.

The Client is the sole party responsible for the content and services hosted on the Services and for the information transmitted or collected.

It is reminded that Ikoula is a technical intermediary and has no responsibility regarding the content and data uploaded to the Services by the Customer: Ikoula has neither the knowledge nor the control of the content stored by the Customer on the Services.

## 24. DATA BACK-UP

It is the Customer's responsibility to regularly back up Data, files, applications and information of any kind installed on the Services. In the event of accidental destruction, the Customer expressly acknowledges that Ikoula will under no circumstances be obliged to reconstitute them.

The Customer is informed that despite all the care that Ikoula takes when updating their infrastructure or any manipulation whatsoever, Customer Data may sometimes be lost or damaged. In the event that the Customer Data is lost or damaged as a result of an update or manipulation of any kind, Ikoula will reinstall the Customer Data on the basis of the backup provided by the Customer. The Customer is informed that if the backup is not provided to Ikoula, the Data may not be recovered and may be lost, without Ikoula being held responsible for this.

Unless the Customer expressly subscribes to the Data backup Service, Ikoula does not carry out any specific backup of the hosted Data and therefore, Ikoula does not in any way guarantee the recovery of Customer Data that may have been lost or damaged.

Therefore, Ikoula shall not be held liable in the event of any failure by the Customer to implement security measures, in particular back-up measures.

When the Customer subscribes to the "Data backup" option, Ikoula will back up the Customer's Data. However, the Customer is reminded that in their capacity as hosting company, Ikoula has no knowledge of the Data used by the Customer and that Ikoula cannot, in fact, check the integrity of the Data, i.e. in particular the fact that the Data saved is usable. Consequently, the Customer ensures the integrity of the Data saved by regularly checking the backup.

## 25. DATA RECOVERY

When the Contract expires, the Customer undertakes to recover his/her Data no more than 48 hours before the last Day of the hosting Service. Throughout the whole duration of the Contract, the Customer undertakes, as Data producer, to regularly back up his/her data.

In the Data is not recovered within the specified time period, Ikoula will delete the Customer's Data without the Customer being able to claim any compensation or damages as a result. If the Customer requests, in writing, an additional grace period in order to recover his/her Data, Ikoula will then charge for the continuation of the Services at the current price. The grace period may only be granted by Ikoula if the Customer has paid all his/her invoices in full. Ikoula shall not be held responsible for the deletion of Data if the Customer fails to recover it, and Ikoula will under no circumstances be obliged to return the Data.

Furthermore, in the event of termination for serious misconduct, Ikoula will return the Data on request, provided that an appointment is made to return the Data and provided that the Data is returnable, which would not be the case, in particular, if a competent authority prohibits its return or requests its destruction.

## 26. PERSONAL DATA

The provisions applicable when the Customer hosts Personal Data on the Services are stipulated in the Agreement on the Protection of Personal Data, which may be consulted at the following address:

[https://www.ikoula.com/sites/default/files/2018\\_05\\_17\\_Conditions\\_Generales\\_RGPD\\_EN\\_FINAL.pdf](https://www.ikoula.com/sites/default/files/2018_05_17_Conditions_Generales_RGPD_EN_FINAL.pdf)

## 27. INTELLECTUAL PROPERTY

The present General Terms and Conditions do not imply any transfer or assignment of intellectual and industrial property rights over the elements - namely all computer codes, texts, images, design, graphic guidelines, user-friendliness, documentation, software, information presentations, games, names, commercial names, texts, comments, images, illustrations, product or Service brands, inventions - and in general any creation whatsoever, used to provide the Services which belong to Ikoula or to the holder of the intellectual property rights, i.e. the application suppliers, game publishers or any other entitled party, it being understood that only private use by the Customer is authorized under the conditions of the licenses of the publishers concerned, said licenses being communicated on request to Ikoula.

In addition, it is strictly forbidden for the Customer to:

- reproduce any element used to provide the Services,
- seek to reconstitute the technologies belonging to Ikoula using reverse engineering methods.

These General Terms and Conditions do not imply any transfer or assignment of the Data that the Customer transmits to Ikoula as part of the Services, for example the Data that the Customer stores and processes on the Resources made available by Ikoula.

## 28. CONFIDENTIALITY

The Parties undertake to treat as confidential any information gathered during the performance of the Contract and which must be considered confidential either because:

- they are expressly designated as such by the Party from which they are collected,
- they are confidential in nature, for example, when they involve undisclosed personal, commercial, industrial, technical, or strategic Data.

Each of the Parties shall treat such confidential information with the same degree of care and protection as they must grant to their own confidential information of equal importance. Each Party will keep the said confidential information for the entire duration of the Contract, and then for a period of three (3) years from its expiry for any reason whatsoever, and will refrain from disclosing it except to employees or third party service providers subject to an obligation of confidentiality, who will need it to carry out their duties on the occasion and for the purposes of performing the Contract. The disclosure by the Parties of confidential information to each other under the terms of the Contract may not, under any circumstances, be interpreted as conferring on the Party receiving such information any right of ownership or license whatsoever.

## 29. TRANSFER

The Customer cannot transfer the Services and the Contract to a third party without Ikoula's written authorization. The Customer must submit his/her request to transfer the Contract by post. In the case of an agreement, Ikoula will return the signed letter to the Customer. In the case of no response within fifteen (15) Days of receipt of the written request, Ikoula will be deemed to have refused the transfer.

Ikoula may at any time transfer, assign or give to a third party in any form whatsoever, all or part of their rights or obligations arising from the Contract, after having informed the Customer in advance, who will have no possibility to object.

## 30. MISCELLANEOUS

If one of the stipulations of the Contract is found to be null and void, in accordance with a rule of law in force or a court decision that has become final, it shall be deemed not to have been written, without this invalidating the Contract or altering the validity of its other provisions.

The fact that one of the Parties does not avail itself, or delays in availing itself, of the application of a clause of the General Terms and Conditions shall not be interpreted as a waiver of the right to avail itself of this clause in the future.

Neither Party may make any commitment in the name and on behalf of the other. Each of the Parties therefore remains responsible for its acts, allegations, commitments, Services, products, and staff. None of the Parties may invoke the provisions of these General Terms and Conditions to behave towards third parties as an agent, representative or mandatary of the other Party, or to bind it towards third parties. These General Terms and Conditions are free of any affectio societatis, each of the Parties retaining its full autonomy, its responsibilities and its own customers.

The titles of the articles in these General Terms and Conditions are purely indicative and in no way affect their meaning or interpretation.

For the performance of the Contract, the Parties respectively elect domicile at the addresses appearing on the Order Form or at the address specified in the Customer Area on the Website. In the case the Customer's address changes, the Customer shall notify Ikoula in writing without delay.

The Customer accepts that Ikoula may mention him/her in marketing documents or on the Ikoula Website. The Customer grants Ikoula the right to use the trade names and brands he/she owns exclusively for marketing purposes.

### 31. PROOF AGREEMENT

The Parties agree that all data, information, files and any other digital element exchanged between the Parties shall constitute admissible, valid and enforceable proof with the same evidential weight as a private deed.

The Parties commit not to contest the admissibility, validity, enforceability or evidential value of the above-mentioned elements of an electronic nature or in an electronic format, on the basis of their electronic nature. In the absence of proof to the contrary, these elements will be valid and enforceable between the Parties in the same way, under the same conditions and with the same evidential value as any document drawn up, received or kept in writing.

All notifications issued in the context of these Terms and Conditions, and in particular formal notices and reminders to the Customer, will be made by Ikoula by simple email, unless otherwise expressly stipulated.

The time and date of the Ikoula e-mail server will be considered as proof between the Customer and Ikoula.

The provisions of this article do not apply to notifications by post or registered letter with acknowledgement of receipt provided for in this Contract.

### 32. EXPORT CONTROL

Subject to the restrictions on use set out in the provisions of the Contract or specific to the Customer's activities, Ikoula ensures that the Services can be marketed and used within the European Union and in the countries in which the Data Centres used to provide the Services are located.

If the Customer uses the Services or authorizes third parties to use the Services from a geographical area outside the country in which the said Data Centres are located, it is the Customer's responsibility to check that this use is not subject to any restrictions under the applicable legislation or regulations, and in particular with regard to Council Regulation (EU) 2021/821 of 20 May 2021 in the version in force on the date hereof, setting up a Community regime for the control of exports, transfers, brokering and transit of dual-use items, as well as the regulations of the United States of America, such as EAR (Export Administration Regulations) and ITAR (International Traffic In Arms Regulations), Ikoula marketing third-party solutions provided by publishers subject to United States regulations.

Ikoula reserves the right to refuse orders placed from countries subject to trade restrictions or other sanctions, or by nationals of said countries or persons subject to sanctions. In this context, Ikoula may carry out checks on the Customer, particularly in terms of solvency and/or presence on lists of sanctions such as, for example, the single list of freezes of the French Treasury.

Following these checks, Ikoula reserves the right to terminate the Contract automatically and immediately, without having to justify their reasons.

### 33. INTRUSION TESTS

The Customer is authorized to carry out intrusion tests on the Services (hereinafter referred to as the "Intrusion Test(s)") by himself/herself, or by a duly authorized non-competitive third-party auditor of his/her choice, at the rate of one Intrusion Test every three (3) months for the duration of the Contract.

These Intrusion Tests must be carried out in accordance with current regulations.

The Customer must obtain the authorization of the Users and beneficiaries of the perimeter targeted by the Intrusion Test.

The conditions under which the Customer entrusts the third-party auditor with the performance of the Intrusion Tests are the subject of a separate contract concluded between the Customer and the auditor and include all the conditions of this article.

In this respect, the Customer guarantees Ikoula that all the conditions for carrying out the Intrusion Tests stipulated herein will be respected, including by the auditor who intervenes under the Customer's sole responsibility.

Intrusion Tests must not under any circumstances (a) target elements and Ikoula Infrastructures other than those used exclusively by the Customer (in particular, Ikoula's shared infrastructures, networks and services), (b) disrupt the proper operation of Services, infrastructures and Ikoula's networks and/or (c) have any impact whatsoever on Services, Resources, networks and infrastructures provided by Ikoula to other customers.

Any attempt to intrude into environments or systems used by other Ikoula customers is expressly prohibited.

The Customer is the sole party responsible for any consequences that may result from carrying out the Intrusion Tests, including when they are carried out by a third-party auditor.

In particular, it is the Customer's responsibility to carry out or have carried out in advance, and under his/her sole responsibility, all the necessary back-ups to enable it, in the case of an incident occurring during the performance of the Intrusion Tests, to restore and be able to continue to use the elements targeted by the Intrusion Tests (systems, applications, data, etc.).

The Customer is hereby informed that if, as part of the Services, protection mechanisms have been put in place, such as systems to prevent the sending of fraudulent or mass mail (SPAM) or computer attacks by denial of service (DOS or DDOS), these mechanisms will not be deactivated as part of the Intrusion Tests and may therefore result in the Services being unavailable.

The Customer is responsible for informing any person likely to be affected by such unavailability. At the end of the Intrusion Tests, a written audit report is produced.

The audit report is communicated to Ikoula on first request or whenever it is of interest to Ikoula (in particular in the event of a flaw or vulnerability in Ikoula's Services or infrastructures, or which could have an impact on other Ikoula customers).

The audit report, its content, and more generally all information disclosed or collected in the context of the audit and concerning, directly or indirectly, Ikoula, are considered strictly confidential, and may under no circumstances be published or disclosed to third parties without the prior written agreement of Ikoula.

In the event of non-respect by the Customer and/or the third-party auditor with all or part of the conditions of this article, Ikoula reserves the right to immediately suspend access to their Services, without prejudice to any damages to which Ikoula may be entitled.

#### 34. AUDITS

Ikoula may carry out or have carried out, at any time during the performance of the Contract, at their own expense, audits intended to verify that the performance of the Contract complies fully with the Customer's contractual commitments. The audit may be carried out remotely and/or on the Customer's Site.

Anyone carrying out the audit must first sign a confidentiality agreement.

Ikoula's right to audit extends to all their subcontractors. In this respect, the Customer authorizes Ikoula's subcontractors to carry out audits within the limits of the contractual clauses applicable between Ikoula and their subcontractors.

In order to exercise this right of audit, Ikoula will notify the Customer, by any means including an acknowledgement of receipt, respecting a notice period of ten (10) Days, except in the event that an Ikoula subcontractor grants a shorter notice period.

The Parties have the right to audit or have audited, at their own expense, by an independent professional auditor who is not a competitor of the Party being audited, either on site or off-site at the premises of the Party being audited (for subcontractors, off-site audits only), all items and in particular computers, servers, networks, documents on paper or electronic media, whether hosted locally or on a remote server, containing Data, so as to enable the auditing Party to verify compliance by the Party being audited with its obligations under the Contract.

This right may be exercised once a year for the duration of the Contract by each of the Parties.

These audits will take place during Working Hours and must not, as far as possible, interfere with the activity of the Party being audited. The information audited will be confidential within the meaning of Article 28 of the Contract.

The audited Party undertakes to cooperate in good faith with any auditor so appointed and to facilitate access by the auditor, their employees and staff to all the already-mentioned information and elements useful for the proper conduct of the audit assignment. The audited Party agrees to answer any questions and to grant access to all tools and means necessary for the audit. The audit report will be submitted by the auditor to the audited party.

In the event that the final audit report reveals any breach whatsoever of the obligations of the audited Party as referred

to in the Contract, the latter expressly undertakes to implement, at its own expense, all the necessary corrective measures within a maximum period of thirty (30) Working Days from the notification sent to it by the Party that carried out the audit, unless a specific shorter period is agreed between the Parties.

If no corrective measures are implemented by the audited Party, or if the corrective measures are not sufficient for the audited Party to comply with its contractual obligations, the auditing Party may terminate the Contract under the conditions set out in article 18, notwithstanding any damages to which the Customer may be entitled.

The audit procedure does not in any way relieve the audited Party of its contractual obligations and responsibility

### 35. COMPLIANCE WITH ANTI-CORRUPTION REGULATIONS

Each Party undertakes to comply with anti-corruption regulations, particularly the so-called SAPIN II Act No. 2016- 1691 of 9 December 2016 (French regulation).

Each Party undertakes not to grant, authorize or solicit payments, gifts or undue advantages with a view to obtaining or retaining a contract.

Each Party shall have in place procedures aimed at preventing the commission of acts of corruption, both active and passive, by itself, its officers, employees and agents, so as to deal promptly with any suspicion of an act of corruption.

Ikoula has adopted a Code of Ethics which can be consulted on the Ikoula Website.

The Customer carries out his/her activities by refraining from any behavior that could favor or place one of Ikoula's employees and/or managers in a situation of conflict of interest with Ikoula. The Client shall inform Ikoula's Ethics Manager if such a situation arises.

The Customer is hereby informed that failure to comply with the stipulations of this article would be likely to damage Ikoula's image, and is likely to result, depending on the seriousness of the breach, in the application of appropriate measures that may go as far as the termination of the Contract and the request for damages as compensation for the prejudice suffered.

### 36. OUTSOURCING

The Customer acknowledges that Ikoula may also subcontract all or part of the provision of the Services to an affiliate or to any third party, subject to compliance with the conditions set out in this article.

Ikoula undertakes to take all necessary measures to ensure that the Customer is not exposed to direct action or double invoicing.

Ikoula undertakes to ensure that each of their subcontractors implements measures guaranteeing a level of security at least equivalent to the obligations falling to it and which are defined in the clause below. These obligations are set out in a contract between Ikoula and their own subcontractor.

In the event of a default by one of their subcontractors, Ikoula remains the sole party responsible for their obligations to the Customer.

### 37. APPLICABLE LAW- JURISDICTION

The Contract is subject to French law.

The Contract is governed by French law. In the event of a dispute between the Parties, particularly relating to the conclusion, interpretation, performance or termination of the Contract, the Parties shall make every effort to resolve the dispute amicably.

**IF THE PARTIES DO NOT AGREE ON AN AMICABLE SOLUTION, ANY DISPUTES ARISING FROM THE EXECUTION OR PERFORMANCE OF THE CONTRACT WILL BE SUBJECT TO THE JURISDICTION OF THE COMMERCIAL COURT OF PARIS, A COURT TO WHICH THE PARTIES ATTRIBUTE JURISDICTION, REGARDLESS OF THE PLACE OF EXECUTION OF THE CONTRACT OR THE DOMICILE OF THE DEFENDANT, EVEN IN THE EVENT OF A WARRANTY CLAIM, A PLURALITY OF DEFENDANTS OR AN INTERLOCUTORY PROCEEDINGS.**

As an exception to the above, if the Customer meets the definition in the introductory article of the French Consumer Code, if no amicable agreement has been reached, the dispute may be referred to the mediator by one of the Parties before being referred to the Paris Courts.

Signed electronically on