

SIMPLE HOSTING SERVICE CONTRACT

Version 2020.1.1

The present contract (the " Agreement ") is concluded between Gandi, a simplified joint stock company with a capital of 630.000 € having its registered office at 63-65 boulevard Masséna in Paris 75013 France, registered under number 423093459 in the RCS of PARIS, VAT number FR81423093459 (hereinafter referred to as "Gandi" or "We", "Our", "Our") and any legal or natural person, acting in its own name or in the name and on behalf of an Organization, wishing to benefit a Platform as a Service (PaaS) (hereinafter the "Client" or "You", "Your", "Your").

Article 1. Definitions

The terms used in this Agreement, beginning with a capital letter, have the meaning given to them in Gandi's General Terms and Conditions of Service, unless otherwise defined in the Agreement.

Anomaly: Refers to a malfunction or unavailability of the Simple Hosting Service.

Data: Refers to the data, applications, software, websites and content developed, deployed, executed and managed by the Client under its sole responsibility and hosted on the Instance.

Associated Documentation: Refers to the documentation of the Simple Hosting Service including the description of specific functions, configuration information, tutorials and other information related to the current use of the Platform, available and regularly updated on Our Website.

Hosting package: Refers to the configuration chosen by the Client when creating the Instance (country, power, interpreter and database).

Platform/Instance: Refers to all the hardware, server software, operating system, execution environment, database types and network connections defined and implemented by Gandi to enable it to provide the Services covered at stake.

Simple Hosting Service or Services: Refers to the hosting of the Customer's Applications in "Platform as a Service" (PaaS) mode, the provision, management and maintenance of the Platform.

Specifications: Refers to all the technical characteristics and functionalities of the Platform, as described in the Associated Documentation.

Article 2. Contractual framework

This version of the Agreement replaces any versions You have previously accepted.

The subscription and use of the Simple Hosting Service imply acceptance and compliance, without restriction or reservation, of Gandi's General Terms and Conditions of Service, this Agreement and the technical conditions and limitations detailed on Our Website (hereinafter referred to together as "Our Agreements").

The provisions of this Agreement shall supplement Gandi's General Terms and Conditions of Service. In the absence of any provision to the contrary in this Agreement, Gandi's General Terms and Conditions of Service will be fully and completely applicable.

In the event of contradictions or difficulties of interpretation between this Agreement and Gandi's General Terms and Conditions of Service, the provisions of the Agreement shall prevail.

Article 3. Object

This Agreement defines the terms and conditions under which Gandi provides You with the Simple Hosting Service that allows You to host Your Data on a configured, optimized and dedicated Platform and determines the mutual obligations that result from it, according to the options subscribed.

Article 4. Gandi's obligation

In addition to the contractual obligations detailed in Gandi's General Terms and Conditions of Service, as well as, the technical conditions and limitations specific to the Platform, Gandi undertakes to:

4.1. Make its best efforts to make the Hosting Package available to You within a maximum of one hour following the validation of Your full payment and to ensure continuous access to the Simple Hosting Service, up to 99.95% per month (based on a 31-day month), except unavailability cases provided for in Article 4.3 hereof.

Gandi will compensate Your Prepaid Account for any unavailability of the Service below this commitment, which You have notified Us of, and which is linked to a failure of Your responsibility.

In order to ensure the continuity of the accessibility of its services, Gandi will duplicate Your Hosted Data. However, the implementation of this solution does not constitute a backup and under no circumstances it exempts You from performing regular backups of Your Content and technical settings as specified in Article 5.4 hereof.

4.2. Ensure the proper functioning of the Service and, as such, intervene in the event of a problem affecting the security and/or stability of the Platform, in the event of manifest deterioration or attempted deterioration of the Platform.

As such, We will promptly intervene in the event of an Anomaly caused by Gandi to restore such Service, and as far as possible, within six hours after Gandi's knowledge of the Anomaly.

Gandi may need to update the software components of the Platform (web server, databases, version of supported languages, etc.), in order to preserve the security and performance of Your Instances according to the state of the art.

In the event that the software update constitutes a major change that may make Your Instances temporarily unavailable, Gandi will inform You within a reasonable time and let You initiate the update by Yourself.

We will do our utmost to minimize interruptions in the Simple Hosting Service and, as far as possible, to prior inform You within a reasonable time and specify the date, nature and duration of this intervention, so that You can take all necessary measures. However, You acknowledge that We will not be able to notify You in the event that the interruption of the Service is external to Us (in particular related to the Internet network), or is expressly requested by a competent authority or according to applicable laws.

Gandi reserves the right, in the event of absolute necessity, to interrupt all or part of the Simple Hosting Service in order to carry out a technical intervention, especially in the case of an Anomaly, or to carry out any maintenance operation.

Gandi reserves the right to isolate or delete any Data hosted on the Instance that constitutes a serious threat or effective attack on the integrity of the Instance or Gandi's technical infrastructure.

4.3. Exclusion of service levels

In the event that the Service unavailability results especially from maintenance scheduled by Gandi, security updates, cases of force majeure, these interruptions are not taken into account in the extent of the Service's availability. The resulting periods of unavailability will not give rise to any refund or re-credit.

Article 5. Your specific obligations

In addition to the obligations of the Gandi's General Terms and Conditions of Service, You also have to comply with the specific obligations described below when using Our Simple Hosting Service.

5.1. Specific identification obligation

5.1.1. As a Content Host

Depending on Your choice of location of the server on which Your Instance is hosted, You must ensure that You comply with the provisions of the applicable law, in particular concerning the mandatory identification information relating to the host.

Unless otherwise provided by law, You must ensure that any third party may, at any time, contact You as host in order to easily and directly report to You any grievance or any illegal or harmful Content that may be made available by the use of any of Our Services.

You agree to make available to third parties the contact details (surnames, first names, company name, contact address) of the persons responsible for publishing the Content hosted on Your Instance.

5.1.2. As a Content Editor

If you publish an online public communication service on a professional basis, You agree to make available to third parties the contact details (names, first names, company name, contact address) of the persons responsible for publishing the Content hosted on Your Instance.

If you publish an online public communication service on a non-professional basis, You may choose to remain anonymous, by making available to Gandi only your name, company name or business name and address. This information is covered by professional secrecy.

In all cases, You must make Gandi's contact information accessible to third parties in its capacity as host, depending on the location of the server You have chosen.

If Your Instance is hosted in France: Gandi SAS 63, 65 Boulevard Massena 75013 Paris France Tel: +3317030377661	If Your Instance is hosted in Luxembourg: Gandi International 7 rue des Mérovingiens L - 8070 Bertrange Luxembourg Tel: +35220301303
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5.2 Obligation to intervene on the Content

You undertake to upload and process through the Services only lawful Data and Content. Especially, You agree and prohibit Your users from processing via the Simple Hosting Service any Data or Content contrary to laws, regulations or rights of third parties.

You agree to act promptly upon receipt of any notice, claim or complaint from a third party relating to any Content on Your Simple Hosting Service, in accordance with applicable law, to remove or cut access to the disputed Content or to take any action necessary to satisfy the notice.

You expressly acknowledge and accept that in the event of a license to use and in particular if You host services of third parties on Your Instances, You must ensure that they promptly intervene on their Content, **it being hereby specified that any intervention on any Content is Your sole and entire responsibility.**

In the event where Gandi has to intervene in Your place, Gandi will not intervene on any particular Content, but will suspend or delete the Instance associated with the Content in question, or even Your User or Organization Account, in accordance with the terms and conditions detailed in Article 9 hereof.

You agree to facilitate the prompt resolution of any problem or dispute that may arise in connection with Your use of Our services and, where applicable, to promptly disclose the identity of any third party with a license or rights to use and/or administer the services at stake.

5.3. Obligation to ensure the security of Your Data

You must ensure the security of Your Data, Access Codes and passwords and You agree to take all necessary measures to secure access to them.

You agree to regularly check the security level of the software you install on Your Instances, and to promptly update such software if a security patch is made available by the publisher. The security of the Content, sites and applications hosted on Your Instances is Your sole and entire responsibility, apart from the updates of the Platform itself, which Gandi is in control of.

You acknowledge that you assume full responsibility for:

- the configuration of Your Instances in accordance with Your particular needs and objectives;
- the implementation of appropriate solutions to secure and/or restrict access to all or part of Your Instances, Content, sites or applications hosted by You.

Gandi cannot under any circumstances be held responsible for security breaches and damages resulting from a breach of Your obligations.

You agree to immediately notify Gandi of any security breach or misuse of Your Instances, of any nature whatsoever, of which You may be aware, so that We may, if necessary, coordinate Our efforts.

5.4. Data backup obligation

The backup of Your Data and technical settings is entirely Your responsibility. It is Your responsibility to take all necessary measures to ensure the regular backup and conservation of Your Content and of all Your data and settings, as well as their updates, on any medium of Your choice, outside of Gandi during the term of this Agreement.

It is hereby specified that Gandi's provision of optional backup tools cannot be interpreted as an obligation on Gandi to backup Your Content and technical settings.

5.5 Breaches of Your Obligations

Gandi reserves the right to suspend the Service in the event of a breach of Your contractual obligations, especially in the following cases:

- if You disrupt the services provided by Gandi or damage its computer system, or its resources, in particular if Your use of the Service disrupts its general functioning and/or is contrary to the technical conditions and limitations specific to each Service;
- if Your Instance is the victim of a security breach or DDoS attack that could disrupt the proper functioning of Our infrastructure;
- if You are in default of payment despite the time limit and the request for regularization by Gandi.

It is hereby specified that, notwithstanding, the suspension of the Service, the aforementioned cases may also result in the termination of the Agreement in accordance with the terms and conditions agreed in Articles 9.2 and 9.3 hereof.

Article 6. Prices - Terms of payment

The prices for the Simple Hosting Service and any options are specified on Our Website. In accordance with Gandi's General Terms and Conditions of Service, You may only benefit from the ordered Service after validation of full payment.

In the event of termination or downward modification of Your Hosting Package, the corresponding amounts, calculated pro rata temporis, to the nearest day, will automatically be replenished on Your Gandi Prepaid Account.

Article 7. Service Activation

The activation of the Simple Hosting Service corresponds to the effective provision of the ordered Instance and implies full prior payment (payment received and validated) of the services and options ordered.

You will be notified of the activation of the Service by email to the declared address associated with Your User Account.

In accordance with Gandi's General Terms and Conditions of Service, and the provisions of the Consumer Code, and as soon as You qualify as a "consumer" within the meaning of the Consumer Code, You acknowledge and accept that Gandi fully executes the provision of the Service as soon as the service is activated. You declare that you understand and accept that this full performance may begin before the end of the withdrawal period from which the consumer benefits. In this context, You expressly waive Your right of withdrawal, in accordance with Article L. 221-28, 1° of the Consumer Code.

Once the Service is activated, you will be able to use your User Account independently:

- increase the size of Your disk within the same hosting package;
- modify (upwards or downwards) the power of Your Instance by changing the hosting package;
- terminate the Simple Hosting Service in accordance with the terms and conditions specified in Article 9 hereof.

Article 8. Duration of the Agreement

8.1. The Agreement takes effect from the effective activation of the Service, in accordance with the terms and conditions set out in Article 7, for the duration You select when activating or renewing the Service, except in the event of termination detailed below.

8.2. The renewal of the Simple Hosting Service is not automatic and must be subject to a renewal order via Your User Account.

To be effective, the renewal of the Service requires full payment (received and validated) at least 24 hours before the end of the current period. Failure to meet this deadline will not guarantee renewal without interruption of service. We strongly recommend that You renew the Service sufficiently in advance, taking into account the payment method chosen, in order to avoid any interruption of Service when it expires.

In any event, the renewal of the Service requires full payment (received and validated) at least one day before the end of the current period. Failure to meet this deadline will not guarantee renewal without interruption of service. We strongly recommend that You fund Your Prepaid Account sufficiently in advance, taking into account Your payment method, in order to avoid any interruption of service when due.

8.3. The Agreement ends in the following cases:

- if You do not renew the Service or the full payment for the renewed Service has not been received and validated before its expiry;
- in the event that the automatic renewal of the Service is activated, if You do not have sufficient amounts on Your Gandi Prepaid Account to cover the full payment of the relevant Instances.

Article 9. Termination of the Agreement

9.1. Your right to terminate

You may terminate this Agreement at any time without notice.

In the event of early termination of Your authority, You will be refunded or credited back to Your Gandhi Prepaid Account in proportion to the unused time initially subscribed, remaining for the terminated service.

9.2. Termination in case of contractual breach

9.2.1 In the event of a breach of Your contractual obligations, Gandhi may give You notice to remedy it. Any breach of Your contractual obligations, that will not be remedied within the time limit set in Our formal notice will be likely to lead to the deactivation of the Simple Hosting Service, or even the termination of this Agreement and the associated services, without any further formality and without You being able to claim any compensation or reimbursement, regardless of the current period of the Agreement during which such termination occurs.

9.2.2 In addition to the material breaches defined in Our Contracts, any violation or breach of Your obligations detailed in Article 5.2 hereof shall be considered as a material breach of this Agreement. These material breaches are likely to motivate the deactivation or deletion of the Simple Hosting Service and consequently of Your Instance and/or Your Organization and/or Your User Account without any formality nor notice.

It is hereby specified that no compensation or reimbursement may be required from Gandhi in this respect.

9.3. Consequences of termination of the Agreement

At the end of this Agreement, regardless of the cause and author, access to Your Instance is automatically disabled.

It is hereby specified that You may renew the Simple Hosting Service late, at the prices then in effect, within a maximum period of twenty-nine (29) calendar days from the expiry date of this Agreement.

Your Data will be definitively and irretrievably deleted thirty (30) days after the end of the Agreement, without the possibility of recovering it. It is therefore Your responsibility to implement the necessary measures to backup and recover Your Data before the expiration of the Simple Hosting Service.

Article 10. Security audits

10.1. Services Audit

(i) Scope of the authorization

Security audits of the subscribed Services are authorized only if they do not exceed the strict scope of the service concerned. As part of the Simple Hosting Service, tests are therefore authorized on the Hosted Data only.

(ii) Exclusions

Tests for FTP or SSH access, overloading of the service (in particular by denial of service, distributed or not) and any element affecting Gandhi's infrastructure are expressly excluded.

(iii) Liability

The tests are under the full civil and criminal liability of the Client. If the tests should disrupt in any way the provision of services by Gandhi, Gandhi reserves the right to suspend the Client's concerned Services in order to avoid any impact on its other customers. Gandhi shall not be held liable for this suspension and no compensation shall be due to the Customer.

iv) Exceeding the scope of consolidation

Any exceeding of the scope defined above must be subject to Gandhi's prior written agreement, in accordance with the terms and conditions defined in Article 10.2 hereof. Otherwise, any security audit of the Services overflowing on Our Platform would expose the auditor to criminal sanctions under articles and followings of the Criminal Code, regardless of any civil conviction for any damage suffered by Gandhi.

10.2. Audit of Our Platform

Any security audit of Our Platform is strictly prohibited without the prior conclusion of a specific contract with Gandhi detailing the terms and conditions of this audit.

In any event, the following conditions must be met in the event that Our Platform is included in the scope of the planned audit:

- The Client may only carry out a security audit once a year for a maximum of five days;
- You must notify Gandhi by e-mail 2 weeks minimum before the audit. The audit notification must specify the scope of the audit, the identity of the auditor, and the audit methodology;
- The audit must not disrupt Gandhi's normal activity;
- The Client shall bear the costs of the audit as well as any costs incurred by Gandhi as a result of the audit;
- Any discovery of a security breach must be notified to Gandhi as soon as possible. The audit report, for the part concerning Our Platform, must be communicated to Gandhi.

Article 11. Exclusions and limitations of Gandi's liability

In addition to the exclusions and limitations of liability provided for in Gandi's General Terms and Conditions of Service, in connection with the Service, We disclaim all liability for:

- difficulties in accessing Your Hosted Data, due to network saturation and/or due to the technical characteristics and limitations of the Internet and Internet access;
- Data and Content contrary to laws, regulations, public order or morality that You host or have hosted through Our Services;
- difficulties or malfunctions of the Services due to the Data hosted on the Instance or to the nature of the Content that You install or make available via Your Instance under Your sole and entire responsibility;
- any deterioration of the Services by You and/or due to non-compliance with the technical conditions and limitations applicable to the Platform;
- the misappropriation, total or partial destruction of the information transmitted or stored, especially as long as this information circulates via the Internet, if this destruction is the result of a fault, carelessness and/or negligence that is directly or indirectly attributable to You;
- any contamination, by virus or other computer malware, regardless of the technology used, of Your Content and/or software, such protection is Your responsibility;
- an intrusion by a third party on one or more of Your Instance(s), provided that, by express agreement, the security of Your Instances remains at Your charge;
- direct or indirect consequences related to the suspension or termination of the Simple Hosting Service resulting from a breach of Your contractual obligations.

In any event, Gandi cannot be held responsible for the maintenance of any incident or anomaly related to: (i) use of the Service that does not comply with its purpose, its documentation or this Agreement, (ii) a hardware or software failure of one or more elements of the Your computer or network system, (iii) incorrect configuration of Your computer environment or workstations, (iv) Your refusal to cooperate with Gandi in resolving the Anomalies, (v) a refusal by a third-party publisher to cooperate with Gandi in resolving the Anomalies, and more generally to any voluntary act of degradation by You or a third party.

In addition, You acknowledge that Gandi is under no general obligation to monitor the Content or Applications hosted. Although, Gandi reserves the right to carry out checks, Gandi is under no obligation to actively investigate facts or circumstances that reveal illegal or harmful activities.

In any event, Gandi's liability shall not exceed the amounts already paid to Gandi for the Simple Hosting Service provided.

Article 12. Guarantee

You guarantee Gandi and the Trustee against any recourse or legal action based on (i) the violation of the intellectual property rights of third parties, (ii) an infringement of the laws and regulations in force, resulting in particular from the choice or use of the Domain Name and/or the Trustee Service by You or any person to whom You have granted any right.

As such, You agree to indemnify Gandi and to bear the legal costs and attorney's fees incurred by Gandi or the Trustee in connection with such an action, as well as the amount of the settlement payments and/or damages to which Gandi or the Trustee may be liable.

The provisions of this article shall survive the expiration or termination of the Contract.

Article 13. Resale of the Service

You are authorized to resell Our Simple Hosting Service, subject to:

- to pass on the obligations provided for in Our General Terms and Conditions for the Provision of Services and this Agreement to Your own customers, and more particularly to ensure that Your customers respect all the commitments listed in this Agreement and the texts in force;
- take over at Your expense all the obligations and responsibilities arising from Gandi's General Terms and Conditions of Service as well as those arising from this Agreement with Your customers and/or with third parties, in addition to those incumbent to hosts, according applicable law.
- before reselling Our Services, ensure that Your customer does not directly or indirectly participate in any spam activity listed in the "SPAMHAUS" registry (freely searchable at the following address: <https://www.spamhaus.org/>), and/or is not listed there and You vouch for Gandi;
- offer Your customers at least the same level of service quality as that offered by Gandi.

Article 14. Modification of the Agreement and tariffs

In accordance with Gandi's General Terms and Conditions of Service, and in accordance with the terms and conditions set out therein, this Agreement, including the tariffs for the Services, are subject to change in order to take into account any changes in case-law, law or technology.

Article 15. Applicable law - Jurisdiction clause

The Agreement is governed by and construed in accordance with French law.

Before any contentious action is taken, the Parties shall seek, in good faith, to settle amicably their disputes relating to the validity, interpretation, performance or non-performance, interruption, termination or termination of the Agreement. The Parties shall make any relevant findings to enable them to find a solution to the conflict between them.

In the absence of amicable resolution, any dispute concerning the validity, interpretation or execution of the Agreement will be brought before the competent French courts within the jurisdiction of which Gandi is established.