

General Terms and Conditions Shadow GPU CLOUD

1. Introduction

These terms and conditions (the “Conditions”) govern the use of the services known as “GPU Cloud” (the “Services”) offered by SHADOW SAS, a simplified joint-stock company (société par actions simplifiée) whose registered office is located at 42 Avenue de la Porte de Clichy – 75017 Paris, registered with the Paris Trade and Companies Register under number 891 586 299.

As from their acceptance by the Client, they constitute a contract (the “Contract”) between Shadow and the client (the “Client”; together, the “Parties”), it being understood that acceptance of these Conditions is a condition of access to the Services.

The Services may, where applicable, be subject to special conditions or to a specific contract which, once accepted by the Client, will supplement or replace these Conditions and, where applicable, will prevail over them.

2. Purpose of the Conditions

The purpose of these Conditions is to define the terms and conditions under which Shadow will provide the Client with computing-resource Services.

The Services are computing resources comprising processing capacity, storage memory and, more generally, technical resources; these Compute resources may be provided in the form of a virtual machine. The description of the Services ordered by the Client is set out in the Purchase Order.

It is specified that, during the term of the Contract, Shadow may replace the hardware provided for the Services, as described in the Purchase Order. Where applicable, Shadow undertakes to ensure that such replacement does not affect the performance of the Services and that the new hardware is at least equivalent.

3. Duration of the Services

The Services defined in the initial purchase order (hereinafter the “Purchase Order”) will be subscribed to by the Client for the term specified in the Purchase Order.

Unless otherwise stipulated in the Purchase Order, the Contract is entered into for a term of one (1) month, tacitly renewable for successive periods of one (1) month (“Period”). The Client may terminate the Contract at the end of each Period.

In the event of termination, the Client remains liable for the price of the Services consumed. If, following termination, the Client continues to use the Services, the latter will be invoiced on the basis of this Contract, on the same terms, for successive monthly periods.

4. Ordering the Services

After the initial contracting, the Client may order the provisioning of new Services, at any time, by contacting Shadow by any written means customary in the profession. These General Terms and Conditions will continue to apply throughout the contractual relationship.

5. Properties and features of the Services

As from its registration and acceptance of these Conditions, the Client will benefit from access to the computing Services, subject to payment of the invoices due.

The Services may consist of:

- the provision by Shadow of Guaranteed Compute resources for which the Client commits, for a defined period, to a minimum consumption volume defined in the Purchase Order (“**Shadow GPU PaaS**”);
- access to computing resources available on shared infrastructure, on preferential pricing terms in return for non-guaranteed availability. These resources are allocated dynamically

according to the capacity available on Shadow's servers ("**Spot Compute**").

5.1. Shadow GPU PaaS

The Services will be made available to the Client, who may use them in accordance with its needs, subject to compliance with these Conditions.

The commitment for the Shadow GPU PaaS Services is a firm commitment for the duration of the subscription indicated in the Purchase Order (the "Subscribed Period").

5.1.1. Provision of the Services

Shadow makes the Shadow GPU PaaS Services available to the Client in the geographic zones and with the technical characteristics defined, or their equivalent, between the Parties.

Shadow undertakes to make the subscribed GPU PaaS resources available to the Client no later than one (1) day after the start date of the Subscribed Period.

In the event of a delay in provision attributable to Shadow and exceeding seventy-two (72) hours from the scheduled date, the Client must inform Shadow in writing so that the latter may carry out the necessary checks and, where applicable, remedy the situation as soon as possible.

The provision of resources by Shadow is conditional upon the effective availability of capacity from its own infrastructure providers. In the event of unavailability or capacity restriction attributable to a third-party provider, Shadow undertakes to inform the Client as soon as possible and to use its best efforts to find an alternative solution or to postpone provision. Shadow cannot be held liable for delays or unavailability originating in the failure of a third-party provider over which it exercises no direct control.

5.1.2. Access to the Service

Access to the GPU resources is provided to the Client via an API made available by Shadow. The technical access procedures are described in the technical documentation available on the website: <https://gpu-instances.shadow.tech/fr/>.

The Client is solely responsible for properly integrating the API into its systems and technical environments. It is the Client's responsibility to ensure that its infrastructure is compatible with the technical specifications published by Shadow.

The identifiers and access keys provided to the Client are personal, confidential and non-transferable. The Client undertakes to take all necessary measures to ensure their security and to notify Shadow without delay in the event of any proven or suspected compromise.

5.1.3. Service levels

Shadow uses its best efforts to ensure the continuous availability of the dedicated Shadow GPU PaaS Services subscribed to by the Client. In this respect, Shadow's obligations in respect of the GPU PaaS Services are obligations of means (best efforts) and not of result.

Shadow undertakes in particular to:

- continuously monitor the state of the infrastructure;
- intervene as soon as possible in the event of an incident affecting the availability of the Client's resources;
- inform the Client of any major incident liable to affect its access to the Service, in accordance with the procedures set out in the documentation.

Shadow is not responsible for unavailability resulting from causes external to its infrastructure, in particular failures of the third-party operator's network, cases of force majeure, duly notified scheduled maintenance operations, or the Client's own faults.

5.1.4. Maintenance

Shadow reserves the right to carry out maintenance operations on its infrastructure that may result in a temporary interruption of access to the resources. Shadow undertakes to notify the Client of any scheduled maintenance with reasonable prior notice, in accordance with the procedures described in the documentation.

In the event of emergency maintenance necessary to preserve the integrity or security of the infrastructure, Shadow may intervene without prior notice and will inform the Client as soon as possible.

5.2. Spot Compute Services

Unless otherwise stipulated in the Purchase Order, the Spot Compute Services allow the Client to access computing resources available on shared infrastructure, on preferential pricing terms in return for non-guaranteed availability. These resources are allocated dynamically according to the capacity available on Shadow's servers.

5.2.1. Interruptible nature of the Service

The Spot Compute Services rely on excess capacity of Shadow's infrastructure and are, as such, by nature liable to be interrupted at any time, in particular in the event of an increase in demand from other Shadow clients or of a reallocation of capacity.

5.2.2. Interruption notice

Where it is necessary to interrupt one or more of the Client's Spot resources, in particular due to a need for Shadow to reclaim capacity, Shadow undertakes, as far as possible, to notify the Client fifteen (15) minutes before the effective interruption of the instances concerned. This notification will take place according to the mechanism described in the GPU PaaS documentation provided to the Client.

5.2.3. No continuity guarantee

The Client acknowledges that, notwithstanding this fifteen (15) minute notice, Shadow cannot guarantee the continuity of the Spot Compute Services, which may be subject to interruptions inherent in their operating model. It is the Client's responsibility to design its workloads so as to be tolerant of such interruptions.

5.2.4. Service levels

The Client acknowledges that the Spot Services rely on excess capacity, are by nature liable to be interrupted and do not benefit from the same availability guarantees as the Guaranteed GPU PaaS Services.

Shadow nevertheless uses its best efforts to ensure the normal operation of these Services, within the technical limits inherent in this model. Unless expressly stipulated otherwise, Shadow's obligations in respect of the Services are obligations of means (best efforts) and not of result.

6. Changes to prices and conditions

Shadow may be required to make changes to these Conditions. Shadow may also be required to modify its prices.

In such case, the Client may be invited to accept the amended Conditions and prices. The Client will then have the option of terminating the Contract under the conditions set out herein. Should the Client not have terminated its Contract, the amended Conditions will take effect on the date indicated in the notification of these changes, and no earlier than thirty (30) days after such notification.

7. Obligations of the Parties

7.1. Duty to cooperate

Each Party undertakes to communicate to the other Party any difficulties of which it may become aware as the performance and provision of the ordered Services progress, as well as any difficulty relating to the performance of the Conditions, in order to examine the corrective measures to be taken.

7.2. Confidentiality

Given the experimental nature of the Services, the Parties understand and accept that respect for confidentiality is an essential aspect of these Conditions and undertake to be particularly attentive to compliance with this obligation.

During the term of this Contract and for two (2) years following its termination or expiry for any reason whatsoever, each Party (hereinafter the "Receiving Party"):

- a. agrees to treat as confidential, and undertakes not to disclose, all documents, information and Personal

Data to which the other Party may have access and/or those communicated by the other Party in the performance of this Contract (hereinafter the "Confidential Information"); and

- b. will exercise the same care in protecting such Confidential Information as it does for its own confidential information.

This confidentiality obligation does not apply to information and documents:

- c. which are, on the date of signature of this Contract, or which subsequently become, publicly known, unless the Receiving Party of such information is the source of the publication;
- d. which are already in the possession of the Receiving Party on the date of communication of such information (a date which may have occurred prior to the signature of this Contract), where the Receiving Party can provide proof of prior personal possession before such communication;
- e. which are disclosed by a third party entitled to communicate them;
- f. which the Receiving Party can prove to have developed independently of the information transmitted under the Contract.

7.3. Code of conduct

The proper functioning of the Services presupposes that the Client makes responsible and reasonable use of them.

Accordingly, the Client is prohibited from using the Services abusively, or from assisting a third party in doing so, and in particular, in the course of its use of the Services, from:

- breaching any applicable law or regulation, in any manner whatsoever, in particular by storing, publishing or sharing content that is fraudulent, defamatory or misleading, or that aims to incite crimes and offences, racial hatred or suicide, to glorify crimes against humanity, or that contains elements of child pornography, or any violent or

pornographic content where such content is liable to be accessible to minors;

- infringing the privacy or rights of third parties, in particular by disseminating data, images or sounds that may constitute defamation, insult or disparagement, or that infringe privacy, image rights, public decency or public order, or by disseminating tangible or intangible property protected by an intellectual, literary, artistic or industrial property right that may constitute infringement (contrefaçon);
- carrying out intrusions or attempted intrusions into third-party computer systems, hosting aggressive services such as botnets, propagating viruses, worms, spyware, logic bombs, attacks (such as DDoS, DoS, scanning, spamming, brute force, etc.), or any other computer programs intended or having the effect of restricting, disrupting or altering the proper functioning of any equipment or computer programs;
- probing, analysing or testing the vulnerability of any computer system or network (for example by carrying out so-called "pentesting" tests), unless this is done in accordance with a vulnerability research and flaw detection programme (so-called "Bug Bounty") expressly authorised by Shadow;
- infringing, circumventing or forcing, in any manner whatsoever, any security or authentication measure;
- accessing, using or modifying non-public areas or parts, or shared areas or parts, of any computer system or network, or of any service, including the Services, which the Client is not invited to access;
- disrupting or interrupting the access of a third party or another client, of a host or a network, including, among other means, by sending a virus, by overloading, by data flooding, by sending spam, or by sending a large number of emails or requests, directed at any part of the

Services or any part of third-party services;

- accessing or attempting to access accounts giving access to the Services other than that of the Client, performing actions therein, or creating accounts by any means other than the public interfaces made available for that purpose (for example, mass account creation or the use of so-called “scraping” techniques);
- using the computing power of the Services in order to break encryption keys (which the Client was not legally authorised to break);
- disrupting or attempting to disrupt, in any manner whatsoever, the proper functioning of the Services, and in particular disabling, altering, infringing or circumventing, or attempting to disable, alter, infringe or circumvent, in any manner whatsoever, any device or feature of the Services, in particular any security or authentication device, any access restriction, any storage limit, or any sleep or shutdown mechanism, or providing Shadow with false or inaccurate information, or accessing, modifying or using non-public areas or parts of the Services or shared areas of the Services which the Client is not invited to access;
- hacking, copying or reverse-engineering any code or equipment of Shadow, including the Software, or more generally undertaking any action that is prejudicial to Shadow;
- probing, analysing or testing the vulnerability of any system or network.

It is understood that the above list is not exhaustive. Applicable laws and regulations may be understood as including, in particular, those applicable to the geographic location of the servers, those applicable to the geographic location of the Client when it uses the Services, and those of the country in which the Client subscribed to the Services.

Shadow reserves, in particular, the right to suspend or terminate any use of the Services

that would disrupt the proper functioning of Shadow’s computer equipment or the general proper functioning of the Services, or in the event of use of the Services contrary to the code of conduct.

8. Financial conditions

8.1. Spot Compute Service

The Spot Compute Services are invoiced on a usage basis, based on the computing resources actually consumed by the Client during the past month, at the rates indicated in the Purchase Order.

Shadow issues a monthly invoice summarising all of the Client’s consumption in respect of the Spot Compute Services.

8.2. GPU PaaS

The Guaranteed Resources are invoiced on a flat-rate, monthly basis, based on the resources subscribed to by the Client, irrespective of the use actually made. Payment is made in advance (upfront) for the upcoming monthly period. Shadow issues an invoice at the beginning of each monthly period corresponding to the resources subscribed to for the following month.

Insofar as the resources are allocated exclusively to the Client for the Subscribed Period, the payment made in respect of a monthly period is definitively acquired by Shadow and does not give rise to any refund, including in the event of under-use of the resources by the Client.

The storage subscribed by the Client under the GPU PaaS Services is subject to a monthly commitment. Any storage order covers a full monthly period: during the current month, the Client may not decrease the subscribed storage volume. Any decrease in this volume shall take effect only from the following monthly period. Any increase shall take effect immediately and shall be charged on a *pro rata temporis* basis.

8.3. Payment terms

Invoices are paid by bank card or bank transfer, at the Client’s choice upon subscription. Payment is due upon receipt of the invoice. Any

sum due and not paid by the end of this period will bear interest at the rate applied by the E.C.B. to its refinancing operations, increased by ten (10) points.

Pursuant to Articles L.441-6 and D.441-5 of the French Commercial Code, the fixed indemnity for recovery costs, in the amount of forty (40) euros, will be applied in the event of payment beyond the due date. This indemnity is in addition to the late-payment penalties.

In addition, in the event of total or partial late payment, Shadow is entitled to suspend, as of right, in whole or in part, the provision of the Service(s) without any formality other than the prior formal notice (mise en demeure) sent to the Client for its payment default and having remained without effect for seven (7) days, without thereby releasing the Client from its payment obligation and notwithstanding any penalty, damages or interest that Shadow may claim.

9. Client data and content

9.1. Data

In the course of its use of the Services, the Client may transmit to Shadow, or onto the servers operated by Shadow or on its behalf, certain files, content, emails, contacts, etc. (hereinafter the "Data"). This Data remains the property of the Client and in no way belongs to Shadow. Under these Conditions, the Client grants Shadow, over this Data, only the usage rights that are required for the proper functioning of the Services subscribed to by the Client. With the exception of these limited usage rights, these Conditions grant Shadow no rights over the Data.

Certain Services may allow the Client to share its Data with third parties. Such sharing is the Client's sole responsibility. In this regard, Shadow urges the Client to exercise the utmost caution as to the Data it chooses to share, and the persons with whom it shares it.

It is, moreover, the Client's responsibility to take all necessary precautions to back up and protect its Data. It is therefore the Client's responsibility to make regular backups of its

data, including the Data, on a medium external to the Services and by any means convenient to the Client.

Notwithstanding the foregoing and subject to applicable laws and regulations, Shadow may collect statistics and metrics relating to the use of the Services (CPU, GPU, RAM and network usage, traffic patterns, etc.).

9.2. Personal data

The processing of the Client's personal data by Shadow is set out in the Privacy Policy published on Shadow's website (<https://shadow.tech/fr-FR/privacy-policy>). By accepting these Conditions, the Client also adheres to the Privacy Policy in all its provisions.

Generally, the Parties undertake to comply with all provisions applicable to the processing of personal data.

10. Liability

The liability of either Party may not be incurred, whatever the basis and nature of the action, except in the event of proven total or partial non-performance of that Party's obligations, or of proven defective performance and/or non-conformity of all or part of the Services, having caused personal, direct and certain damage to the other Party.

In this respect, it is recalled and expressly specified that the Services provided to the Client carry no obligation of availability, performance or support. Shadow undertakes to make all reasonable efforts to offer a quality service but does not commit – in any event – to any obligation of result in this regard.

The cumulative amount of damages potentially payable by a Party under this Contract may not exceed the total of the revenues owed by the Client to Shadow during the six (6) months preceding the event(s) giving rise to the damage.

No limitation of liability applies in the event of bodily injury.

11. Warranties

The warranties and limitations provided for in Article 5.1 of these Conditions apply fully to the GPU PaaS Services.

12. Intellectual property

Each Party remains the sole owner of its pre-existing rights.

Neither Party may claim, on the basis of the communication of pre-existing rights by the other Party for the purposes of performing this Contract, any ownership or possession right over the latter.

Where applicable, where software is necessary for the Client's use of the Services, Shadow grants the Client a personal, non-exclusive, non-assignable and non-transferable right of use over such software for its own needs only. This right is granted for the term of the Contract and is granted solely and exclusively for the purpose of enabling use of the Services in accordance with these provisions, to the exclusion of any other purpose.

13. Commercial references

Shadow may refer to the Client as a reference with the prior authorisation of the Client granted on a case-by-case basis after presentation by Shadow of the materials for this reference and of the indication and distribution of such documents. The Client will give its authorisation or refusal within a reasonable time.

By express agreement between the Parties, Shadow is authorised, as from the signature of this Contract and without further formalities, to display the name and logo of the Client, possibly associated with a description of the type of Services used, as client references on its website(s) and social media accounts, for the term of performance of the Contract and for up to two (2) years after the end of the Contract.

14. Miscellaneous provisions

14.1. Non-waiver

The fact that one of the Parties has not required the application of any clause of the

Conditions, whether permanently or temporarily, may in no event be regarded as a waiver of that Party's rights arising from the said clause whose non-application has been tolerated.

14.2. Partial invalidity

If one or more stipulations of the Conditions are held to be invalid, or considered as such pursuant to a law, regulation or final decision of a competent court, they will be deemed unwritten and the other stipulations will remain in force, unless the latter are inseparable from the annulled stipulation(s).

Furthermore, the Parties will then meet to negotiate in good faith one or more new stipulations reflecting the spirit and having the same economic impact, in order to replace the one(s) deemed unwritten.

14.3. Governing law and jurisdiction

The Conditions are governed by French law. Any difficulty relating to the validity, application or interpretation of the Conditions will be submitted, failing an amicable agreement at the end of a period of thirty (30) days from the occurrence of the dispute, to the exclusive jurisdiction of the courts of the city of Paris, to which the Parties attribute territorial jurisdiction, regardless of the place of performance or the domicile of the defendant. This attribution of jurisdiction also applies in the case of summary proceedings (*référé*), of a plurality of defendants or of a warranty claim (*appel en garantie*).