This Rackspace Private Cloud Services Agreement (“RPC Services Agreement”) is between Rackspace International GmbH (“Rackspace” or “we”) and the customer identified in a Service Description that incorporates this RPC Services Agreement (“Customer” or “you”).

BACKGROUND

A. Customer has deployed or plans to deploy a cloud computing platform that incorporates software distributed by the OpenStack™ Project located at openstack.org (“OpenStack Software”);

B. Rackspace provides various Support Services for OpenStack Software.

Customer and Rackspace agree that Rackspace will provide services related to Customer’s use of OpenStack Software as defined in this RPC Services Agreement and subject to the limitations, terms, and conditions stated in this RPC Services Agreement.

AGREEMENT

1. DEFINED TERMS

Some words used in this RPC Services Agreement have particular meanings:

“Affiliate” means a subsidiary or holding company of either party to the Agreement and any subsidiary of such holding company (where “holding company” and “subsidiary” have the meanings set out in section 1159 of the Companies Act 2006).

“Business Day” or “Business Hours” means 8:00 a.m. – 5:00 p.m. Monday through Friday, excluding public holidays in the United Kingdom.
"Confidential Information" means all information disclosed by one of us to the other, whether before or after the effective date of the Agreement, that the recipient should reasonably understand to be confidential, including: (i) for both of us, unpublished prices and other non-public terms of service, audit and security reports, product development plans, solution diagrams, data centre designs, other proprietary information or technology and information that is marked or otherwise conspicuously designated as confidential; (ii) for each party, any Intellectual Property or proprietary information maintained in confidence (such as unpublished source code or inventions); and (iii) for Rackspace, the Rackspace Configuration for OpenStack. Information that is independently developed by one of us, without reference to the other’s Confidential Information, or that becomes available to one of us other than through breach of the Agreement or applicable law, shall not be "Confidential Information" of the other party.

“Core Software” and “Core Software Support” shall have the meaning as described in Section 7.2.

“Escalation Support” and “Escalation Support Services” shall have the meaning as described in Section 7.1.

“Intellectual Property” or “IP” means legally protectable rights related to patents, copyrights, trademarks, trade secrets, and any other proprietary intellectual property.

"Hosted System" means a combination of hardware, software and networking elements that comprise an information technology system. For the purposes of the RPC Services Agreement, this shall refer to the Customer’s Hosted System on the Customer’s premise and/or in the Customer’s sole control.

"Rackspace Configuration for OpenStack" means the materials provided to Customer by Rackspace specifying hardware, networking, software configuration and other elements of an OpenStack cloud deployment required for RPC Support Services and which may include requirements regarding the hardware specifications, Operating System and other software versions, and configuration scripts. The then current minimum requirements for the
Rackspace Configuration for OpenStack are described in your Service Description or may otherwise be communicated to You by Rackspace.

“Rackspace Private Cloud” or “RPC” means Customer’s cloud computing platform for which Rackspace is providing Support Services under a Service Description, and which conforms to the Rackspace Configuration for OpenStack.

“Rackspace Private Cloud Software” means the compilation of software (including OpenStack software distributed by Rackspace) identified in the Rackspace Configuration for OpenStack and found at http://www.rackspace.com/cloud/private/openstack/software.

“Service Description” means a document signed by the parties or agreed to electronically for Services pursuant to this RPC Services Agreement and which describes a specific cloud computing platform for which Rackspace is to provide Services under this RPC Services Agreement or the nature of the Support Services.

“Services” or “Support Services” means the support services provided by Rackspace as identified on a specific Service Description and described in this RPC Services Agreement.

“Service Level Agreement” means a guarantee or guarantees identified in this RPC Services Agreement.

“Software Support for Rackspace Private Cloud Object Storage” or “Rackspace Private Cloud Object Storage Support” shall have the meaning as described in Section 7.3.

“Supplementary Services” means those services you purchase from Rackspace other than the Services.

“The Fanatical Support PromiseTM” means the Rackspace commitment stated at www.rackspace.co.uk/elements/

2. SERVICES

2.1 Rackspace will perform any Supplementary Services in a good and professional manner. Where relevant, Rackspace will maintain security
practices that are at least as stringent as the minimum security practices described at www.rackspace.co.uk/legal/securityservices/. Rackspace will perform all Services in accordance with applicable law.

2.2 Excluded Services. Rackspace is not required to provide any support (including Support Services) directly to Customer's end users. You agree that you will not refer your End Users to Rackspace for direct support without Rackspace’s prior written consent. Rackspace's engineering and development personnel are not required to interact with Customer personnel other than the skilled engineering and technical personnel designated by Customer as provided in Section 3 (Customer Obligations) below. Unless specified in a given Service Description, Rackspace is not required to support any element of Customer's RPC other than those running the Rackspace Private Cloud Software as identified in the Rackspace Configuration for OpenStack. Examples of specifically excluded services may be detailed in a given Service Description.

2.3 Rackspace Configuration for OpenStack.

To receive Support Services, Customers must be running the Rackspace Private Cloud Software and reference architecture (available at: http://www.rackspace.com/cloud/private/openstack_software). Rackspace may from time to time update the Rackspace Configuration for OpenStack, including in cases where a change to the hardware or architecture requirements is necessary to support new versions of OpenStack or the Rackspace Private Cloud Software. Following initial deployment, Customer is not required to update the RPC in response to changes in the Rackspace Configuration for OpenStack, but shall use reasonable efforts to update the RPC to the current standards set forth in the Rackspace Configuration for OpenStack at appropriate times in the lifecycle of the hardware, networking and software elements that comprise the RPC. Notwithstanding the preceding, in order to receive support for the RPC it must at all times adhere to the supported versions as described in Section 2.4 below (even if a hardware or configuration change is required to update to a supported version). Customer shall make its RPC platform design and other documentation available to Rackspace for review at all times during the term of a given Service Description. Rackspace may terminate any Service Description without liability if the RPC covered by the Service Description does not conform to the applicable Rackspace
Configuration for OpenStack and Customer fails to cure the non-conformity within thirty (30) days of Rackspace’s notice describing the non-conformity in reasonable detail. Customer acknowledges that the hardware and architecture requirements may change between versions of the Rackspace Private Cloud Software, and changes to the RPC may be required in order to update the Rackspace Private Cloud Software.

2.4 Supported Versions of OpenStack Software. Rackspace will provide Support Services only for the version of the Rackspace Private Cloud Software that is the latest release as of the beginning of the deployment. Rackspace is not required to provide Support Services at any time under this RPC Services Agreement for any but the current and one prior major version release of the Rackspace Private Cloud Software. To continue to receive Support Services, Customer must update the RPC from time to time with the current Rackspace Private Cloud Software releases. Customer shall be responsible for initiating updates to released versions, but Rackspace Support Services shall include support for updating. Customer acknowledges that the hardware and architecture requirements may change between versions of the Rackspace Private Cloud Software, and changes to the RPC may be required in order to update the Rackspace Private Cloud Software.

2.5 Rackspace Installed Third Party Support Software. As part of certain Support Services (such as Core Software Support Services or Software Support for Rackspace Private Cloud Object Storage), Rackspace may install third party software on the RPC in order to monitor and support your system(s) (the “Third Party Support Software”). For example, Rackspace may utilize software monitor remote RPC systems. You are prohibited from (i) accessing and utilizing the Third Party Support Software and (ii) copying, duplicating, or modifying the Third Party Support Software. You agree that, upon termination of this Agreement or of an applicable Service Description, you will permit Rackspace to remove the Third Party Support Software from the RPC at the time of termination.

2.6 Training & Certification Services. Training details, if any, will be specified on an applicable Service Description, including location, attendees, and fee detail, as well as the applicable cancelation, substitution, and dismissal policies. Rackspace retains ownership of all copyright and other intellectual property rights in the course material provided in Training & Certification Services,
including any documentation, technical information, and know-how provided in connection with the Training & Certification Services. Any information provided to you as part of Training & Certification Services shall be held in confidence and may not be disclosed or copied, without the express written permission of Rackspace. You may not use a recording or copy device in training or examinations without Rackspace's written consent. Training, training material, certification exams, and other information provided by or on behalf of Rackspace in connection with Training and Certification Services are furnished on an "AS-IS" basis, without warranty of any kind.

2.7 Deployment Services. If the Service Description includes "Deployment Services" then Rackspace shall provide remote services to assist Customer in configuring its cloud software architecture to the specifications of the Rackspace Configuration for OpenStack. Deployment Services shall be provided during Business Hours only. Rackspace personnel are not required to perform any Deployment Services on site at Customer's premises unless specified and detailed in a Service Description.

2.8 On-Site Deployment Services.

2.8.1 Where we have agreed to provide Deployment Services on site at your data centre, you must provide free, safe and sufficient access to your facilities and applicable systems. Sufficient access includes (a) appropriate computer hardware, software and communications resources; (b) system and user documentation; (c) ample working space; (d) telephone service; (e) copying, facsimile, and postage facilities; and (f) other general office supplies and support to Rackspace as reasonably necessary to perform the Deployment Services.

2.8.2 It is your responsibility and obligation to prevent any Rackspace personnel on your site from being exposed to confidential, sensitive or regulated data, and to limit Rackspace personnel's access to your networking systems other than as required for the performance of the Deployment Services.

2.8.3 Unless otherwise specified, you shall be responsible for any commercially reasonable travel expenses incurred by Rackspace as part of its performance of Deployment Services at your premises.

3. CUSTOMER OBLIGATIONS
3.1 Access. Customer will enable Rackspace's reasonable method for secure access to the RPC for the purpose of performing the Services. Customer will permit Rackspace to use a remote viewing tool as needed for Escalation Services. Additional requirements for remote access to the RPC may be detailed in a given Service Description.

3.2 Customer Personnel. Customer's technical personnel shall have the skill and experience necessary to interact with Rackspace's support and technical personnel. Customer shall designate senior engineering and development staff to interact with Rackspace's support team, and such personnel shall work with Rackspace in a collaborative and cooperative manner to jointly resolve support issues.

3.3 Data Backup. Customer shall maintain backups of all information stored on the RPC on an environment separate from the RPC. Rackspace accepts no responsibility for the integrity of data on the RPC.

3.4 Laws Applicable to Customer. Customer acknowledges that it is solely responsible for compliance with all laws applicable to its use of the RPC, including data privacy laws and regulations. If Rackspace’s access to the RPC under this RPC Services Agreement would result in exposing Rackspace to regulated data (including but not limited to personal data or financial information) in violation of applicable law, Customer shall communicate such to Rackspace in writing and Customer shall take appropriate measures to encrypt or secure such data, or otherwise prevent access to such data by Rackspace.

3.5 Support. Customer shall provide such information as Rackspace may reasonably request to address any support issue, including information necessary to duplicate the issue. Customer shall make available to Rackspace personnel who have sufficient knowledge of the relevant systems to understand and accurately communicate technical details necessary to review the issue, and assist Rackspace in diagnosing and troubleshooting the problem.

3.5.1 For Deployment Services, Core Software Support Services, and Software Support for Rackspace Private Cloud Object Storage, Customer shall provide access to the supported environment as described in this RPC Services Agreement. Rackspace will access the supported environment from a set of
geographically redundant, load balanced Bastion Servers. Ports 22 (for SSH), 80 (for HTTP) and 443 (for HTTPS) need to be opened on your firewall for the Rackspace Specified IP addresses which will be used for administration and provided during implementation.

3.5.2 Customer shall, where necessary, provide Rackspace with user accounts that have the sufficient privileges required to perform the Support Services.

3.5.3 Customer shall, where necessary, ensure that the accounts provided to Rackspace are not shared with any other users and do not have access to any networks, devices or applications outside of the supported environment.

3.5.4 For Core Software Support Services, Rackspace will also require a Site to Site VPN connection, which requires you to provide a concentrator or firewall device which:

- Is IPEC capable
- Supports any or all of the following support any or all of the following Hashing Algorithm: SHA-1, MD5
- Supports any or all of the following Encryption Algorithm: DES, AES-128, AES-256, 3DES
- Supports any or all of the following: Deffie Hellman Groups for key exchange: 1, 2, 5
- Supports the shared secret key method to setup VPNs

You are responsible for limiting the host network to a reasonable size for the supported RPC.

3.6 Acceptable Use. You may not attempt to probe, scan, penetrate or test the vulnerability of a Rackspace system or network or to breach our security or authentication measures, whether by passive or intrusive techniques without our prior written consent.

3.7 General. You must use reasonable security precautions in connection with your use of the Services. You must comply with the laws applicable to your use of the Services. You must cooperate with Rackspace's reasonable investigation of Service outages, security problems, and any suspected breach of the Agreement. You are responsible for keeping your account permissions, billing,
and other account information up to date using your MyRackspace® portal or via another Rackspace defined process. You must pay when due the fees for the Services stated in the Service Description or other agreement between us. If there is a dispute with respect to any portion of an invoice, you shall pay the undisputed portion of the fees promptly and provide written details specifying the basis of any dispute. Each of us agrees to work together to promptly resolve any disputes.

4. RESTRICTIONS ON RESALE

During the Term of the Agreement, Customer may use the RPC for its internal business purposes, and to provide services to its customers. Customer may resell the use of the virtual machines provisioned on the RPC or the use of the RPC if bundled with Customer’s own service, provided that Customer may not resell the Services, use of the RPC on a stand-alone basis, or resell the RPC for the purpose of creating a public cloud offering that competes with any cloud services offered by Rackspace.

5. UNAUTHORISED ACCESS TO YOUR DATA OR USE OF THE SERVICES

Rackspace is not responsible to you or any third party for unauthorised access to your data or the unauthorised use of the Services unless the unauthorised access or use results from Rackspace's failure to meet its security obligations stated in Section 2 of this RPC Services Agreement or the Services Description. You are responsible for the use of the Services by any employee of yours, any person you authorise to use the Services, any person to whom you have given access to the Services, and any person who gains access to your data or the Services as a result of your failure to use reasonable security precautions, even if such use was not authorised by you.

6. EXPORT MATTERS

You represent and warrant and undertake that you will not possess, use, import, export or resell (and shall not permit the possession, use, importation, exportation, or resale of) the Services or any information or technical data provided by Rackspace to you under the Agreement in any manner which would cause Rackspace or its Affiliates to breach any applicable export control laws,
rules, or regulations of any jurisdiction (including without limitation those under
UK and US law). Without limitation, you represent and warrant and undertake
that you will not use the Services for the development, design, manufacture,
production, stockpiling, or use of nuclear, chemical or biological weapons,
weapons of mass destruction, or missiles; illegal gambling, terrorism, narcotics,
trafficking, or arms trafficking; nor will you provide administrative access to or
permit use of the Services by any persons (including any natural person,
government or private entity or other form of body corporate) that is located in
or is a national of any country that is embargoed or highly restricted under
United Kingdom or US export laws, rules or regulations.

7. RACKSPACE SUPPORT

7.1 Escalation Support.

7.1.1 If the Service Description includes Escalation Support Services,
Rackspace will provide escalation resources and support for OpenStack
infrastructure as defined in the Service Description on supported versions of the
Rackspace Private Cloud Software, the OpenStack codebase, the Rackspace
Configuration for OpenStack components, and the core functionality of the RPC
(excluding the Rackspace Private Cloud Object Storage module and
components).

7.1.2 Rackspace will not provide routine management, monitoring , maintenance
or support of the RPC, and will not remotely access your RPC, but may require
you to run a diagnostic script, provide command line outputs, screenshots, or a
remote viewing access to aid in troubleshooting. Rackspace garantiert nicht
Lösung aller Engineering- oder Erweiterungs-Anfragen. Rackspace has no
obligation to provide support for the Rackspace Private Cloud Object Storage
module or components as part of Escalation Support Services.

7.2 Core Software Support.

7.2.1 If the Service Description includes Core Software Support Services,
Rackspace will provide remote administration services for the RPC. Rackspace
requires ongoing access to the RPC as described in the Customer Obligations
section of this RPC Services Agreement in order to provide the Core Software
Support Services. Rackspace has no obligation to provide support for the Swift object storage module or components as part of Core Software Support Services.

7.2.2 Rackspace will provide hands on support and maintenance for the core functionality of the RPC (and will remotely access your RPC to provide such Support). This includes, but is not limited to:

- Configuring, patching, upgrading and troubleshooting the host operating systems
- Configuring, patching, upgrading and troubleshooting the Rackspace Private Cloud Software
- Providing access to base guest VM images for use in your image catalogue
- Adding or removing the following supported OpenStack services:
  - Nova – Compute Service
  - Glance – Image Catalogue Service
  - Keystone – Authentication Service
  - Horizon – Dashboard Service
  - API Service
  - Cinder – Volume Service (Linux host as an iSCSI target only)
  - RabbitMQ – Messaging Service
  - Neutron – Software Defined Networking Service
  - Heat – Orchestration Service (For RPC Software Version 9.0 and above)

7.2.3 Rackspace will monitor the processes associated with the above OpenStack services and respond to alerts within the Response Times described in Section 8.1 below.

7.2.4 Rackspace will configure and troubleshoot the above supported OpenStack services on the latest stable release of the Rackspace Private Cloud Software, and will upgrade the supported OpenStack services to the latest version found in the current stable release of the Rackspace Private Cloud Software.
7.2.5 Rackspace will patch the above supported OpenStack services with the latest publicly available stable release(s) of the OpenStack project which have been tested and validated by the Rackspace QA team against the Rackspace Private Cloud Software.

7.2.6 Rackspace will monitor the CPU, disk space, and memory resources of the RPC servers running the Rackspace Private Cloud Software for alerts, and will notify you of any such alerts by ticket in the MyRackspace Customer Portal within the response times described below.

7.2.7 Rackspace will remotely add or remove compute nodes upon request during a Customer scheduled maintenance window (maintenance windows are subject to availability, Rackspace cannot guarantee the timeframe necessary for the completion of a given maintenance).

7.3 Software Support for Rackspace Private Cloud Object Storage

7.3.1 If your Services Description includes Rackspace Private Cloud Object Storage, Rackspace will provide hands on support and maintenance for the core functionality of the Rackspace Private Cloud Object Storage service elements of the Private Cloud Software running on your Hosted System.

Rackspace Private Cloud Object Storage Support includes:

- Configuring, patching, upgrading and troubleshooting the host operating systems.
- Configuring, patching, upgrading and troubleshooting of the Rackspace Private Cloud Software, if applicable.
- Configuring, patching, upgrading and troubleshooting of the Rackspace Private Cloud Object Storage Software
- Rackspace will monitor the Rackspace Private Cloud Object Storage services and respond to alerts within the Response Times described in Section 8.1 below.
- Rackspace will configure and troubleshoot the above Rackspace Private Cloud Object Storage on the latest stable release of the software, and will work with customers to schedule an upgrade of the supported Rackspace Private Cloud Object Storage services to the latest version found in the current stable release.
• Rackspace will patch Rackspace Private Cloud Object Storage with the latest publicly available stable release(s) of the OpenStack project which have been tested and validated by the Rackspace QA team against the Rackspace Private Cloud Software.

• Rackspace will monitor the CPU, disk space, and memory resources of the Hosted System servers running Rackspace Private Cloud Object Storage for alerts, and will notify you of any such alerts by ticket in the My.Rackspace Customer Portal within the Response Times described in Section 8.1 below.

Adding and removing the Rackspace Private Cloud Object Storage.

Rackspace will provision additional storage nodes or remove storage nodes during a maintenance window scheduled with Customer. Maintenance windows are subject to availability. Rackspace cannot guarantee the timeframe necessary for the completion of a given maintenance. The Support team will proactively communicate any timeframe changes with the Customer. Note: Ring balancing process may result in an impact on the performance, operability and/or availability of the Rackspace Private Cloud Object Storage Service (exceeding the maintenance window timeframe during which active work is performed) - for more details please discuss with your Rackspace support team.
In the event of a drive or node failure, Rackspace will schedule a maintenance window with Customer to initiate re-balancing of the ring after the failed drive(s) or node(s) have been replaced.
Rackspace will configure and manage both storage nodes and proxy nodes in the Hosted System.

7.4 Exclusions and Out of Scope Items

7.4.1 Rackspace shall only be responsible for its obligations as specified in this RPC Services Agreement, an applicable Service Description or as otherwise expressly agreed with the Customer.

7.4.2 Some examples of the items not included in Software Support Services for Rackspace Private Cloud Object Storage are:

Third party APIs, software, libraries, drivers, add-ons for interacting with OpenStack API’s, including those created or distributed by Customer
Unmerged customizations to OpenStack codebase
Milestone releases
Networking components or configurations not identified in the Rackspace Configuration for OpenStack

7.4.3 Rackspace will only support Rackspace Private Cloud Object Storage if your available useable object storage space (defined and calculated as Formatted Space / Number of Copies of Data Objects) is at least 600TB. If your useable storage space is less than 600TB, Rackspace may refuse to provide Rackspace Private Cloud Object Storage Support and waive any fees related thereto.

8. SERVICE LEVEL AGREEMENT

8.1 Response Times

8.1.1 You may request support by opening a support ticket via your MyRackspace portal or by calling your account team. Rackspace support team members or systems may create tickets on your behalf in response to phone calls or issues identified by monitoring systems.

8.1.2 Customer agrees to accept Rackspace’s designation of the severity levels defined below and as communicated by Rackspace, provided that Rackspace’s designation is reasonable.

<table>
<thead>
<tr>
<th>Schweregrad</th>
<th>Escalation Support (Initial Live Response Time)</th>
<th>Core &amp; RPC object Storage Support (Initial Live Response Time)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency</td>
<td>2 Stunden</td>
<td>15 minutes</td>
</tr>
<tr>
<td>Dringend</td>
<td>4 Stunden</td>
<td>1 hour</td>
</tr>
<tr>
<td>Standard</td>
<td>1 Business Day</td>
<td>4 Hours</td>
</tr>
</tbody>
</table>

8.1.3 In relation to the Severity Levels outlined above, the following definitions shall apply:

"Emergency": Customer is unable to fulfil its business objectives. This includes situations where Customer is unable to launch or terminate instances, instances failing, the OpenStack cloud is partially or wholly inoperable, or Customer is
unable to store or retrieve any objects in Rackspace Private Cloud Object Storage.

"Urgent": Customer business objectives are impaired, but not completely obstructed. This includes Customer inability to launch or terminate new instances but current instances are operating normally, or where an entire Rackspace Private Cloud Object Storage Zone goes down.

"Standard": Non-critical; some anomalous behaviour in Customer’s RPC. This applies to situations where Customer experiences an unusual delay in launching new instances or in interacting with the OpenStack API or Rackspace Private Cloud Object Storage node failure. This also includes support calls classified as incidents.

8.1.4 If Rackspace fails to meet a response time stated above, Rackspace will issue a credit of £ 75 plus an additional credit of £ 75 for each additional increment of time (as stated above) for which the response time guarantee is not met, up to a total of £ 750 per incident. Customer must request a credit in writing via a support ticket no later than seven (7) days following the occurrence of the event giving rise to the credit. Credits will be applied to invoices issued after the approval of the credit. Ungenutzte Gutschriften werden nicht erstattet.

8.1.5 Once engaged, Rackspace will work with Customer representatives to resolve the problem by either providing a resolution, steps towards a resolution, workaround, configuration changes, or escalation of a bug report to the OpenStack community. If an issue is possibly an unknown OpenStack bug, Rackspace may report the bug along with a description of the issue to the OpenStack community and will investigate remediation approaches internally.

8.1.6 Rackspace will work continuously (24 x 7) using reasonable efforts on an Urgent request until the issue is resolved, is determined to be unresolvable, or the issue is resolved with a work around sufficient to re-categorize to the Standard Level.

8.1.7 The times above are response times, not resolution times. Rackspace makes no guarantee regarding the time to resolve a support request, only that it will use reasonable efforts described above.
8.2 Control Plane Service Level Agreement

8.2.1 If you are running Rackspace Private Cloud Software version 9.0.1 or greater, Rackspace provides a service level guarantee for the control plane of the Rackspace Private Cloud Software components of your Hosted System.

The “control plane” means the OpenStack Project APIs (Application Programming Interfaces) used to perform various functions on the Rackspace Private Cloud System (see details below).

We guarantee the Rackspace Private Cloud control plane will be available 99.99% of the time in any given monthly billing period except for Maintenance.

SLA Credit for Control Plane:

<table>
<thead>
<tr>
<th>Monthly Availability</th>
<th>Credit Percentage of fees per control plane</th>
</tr>
</thead>
<tbody>
<tr>
<td>100% - 99.99%</td>
<td>0%</td>
</tr>
<tr>
<td>&lt;99.99% - 99.9%</td>
<td>10%</td>
</tr>
<tr>
<td>&lt;99.9% - 99.0%</td>
<td>20%</td>
</tr>
<tr>
<td>&lt;99.0</td>
<td>30%</td>
</tr>
</tbody>
</table>

Control Plane SLA Credits will be calculated as a percentage the monthly recurring support fees for the affected Customer RPC configuration for the monthly billing period. The following formula shall be used in the calculation of Control Plane SLA Credits:

Calculation Formula (represented as a percentage):

\[(\text{Valid API Responses})/(\text{Valid API Responses} + \text{valid API Errors})\]

Monthly Availability. 'Monthly Availability' applies to a single control plane managing a given Hosted System running the Rackspace Private Cloud Software, for which you have purchased Rackspace Private Cloud support services. If more than one control plane is deployed, each control plane’s Monthly Availability will be separately calculated.
Rackspace will measure the availability of the control plane using Rackspace monitoring tools. The Rackspace monitoring tool will make a request to all API service running in the control plane from multiple separate Rackspace data centre locations and will capture valid 'API Responses' (a "401 Unauthorized" is considered a valid API Response for the purposes of this Service Level Agreement) and valid 'API Errors' (note: to rule out general internet connectivity issues only simultaneous API Errors from all monitoring locations will be considered to be a valid API Errors).

6.2.2 Scope. For purposes of the Control Plane Service Level Agreement outlined above “OpenStack Project APIs” means the API services for the following OpenStack projects: Compute (Nova), Networking (Neutron), Image Service (Glance), Identity (Keystone), Orchestration (Heat), Block Storage (Cinder) or, if you have purchased Software Support for Rackspace Private Cloud Object Storage for the applicable Hosted System, Object Storage.

9 LIMITATION ON CREDITS

9.1 Credits. The credits stated in this RPC Services Agreement are Customer’s sole and exclusive remedy for Rackspace’s failure to meet those guarantees for which credits are provided. If Rackspace fails to perform any element of the Services for which a credit is not provided, Customer’s sole and exclusive remedy shall be to require Rackspace to perform or re-perform the Services as applicable. Notwithstanding anything in this RPC Services Agreement to the contrary, the maximum total credit for failure to meet any applicable Service Level Agreements for any calendar month shall not exceed 100% of the monthly recurring fee for the related Service Description. Gutschriften, die ohne diese Beschränkung vorhanden wären, werden nicht auf folgende Monate übertragen.

9.2 Maintenance. You are not entitled to a credit for Maintenance, Maintenance shall mean:

a. Scheduled customer maintenance – maintenance of your configuration that you or we request and that we schedule with you in advance (either on a case by case basis, or based on standing instructions), such as hardware or software upgrades;
b. Emergency maintenance – critical unforeseen maintenance needed for the security or performance of your configuration.

9.3 Extraordinary Events. You are not entitled to a credit for downtime or outages resulting from denial of service attacks, virus attacks, hacking attempts, or any other circumstances that are not within our control.

9.4 The Control Plane Service Level Agreement in Section 8.2 shall not apply in the event that you opt-out of the appropriate monitoring for your Services or disable, block, remove or otherwise interfere with monitoring for the Services. The Control Plane Service Level Agreement does not apply in the event that control plane unavailability is the result of hardware, power, network, or other infrastructure interruption or failure in the Customer RPC or the facility hosting the Customer RPC. For the purpose of determining whether a credit is due, time periods will be measured from the time stamp generated by our ticket system, or the time an interruption is recorded in our monitoring system, as applicable. You may open a support ticket to document the start time for a support request or other incident, or if you contact us by telephone to request support, we will open a ticket. If you contact us by phone, there may be a delay between the time of the call and the time we open a ticket.

9.5 Your Breach of the Agreement. You are not entitled to a credit if you are in breach of the Agreement (including your payment obligations to us) at the time of the occurrence of the event giving rise to the credit until you have remedied the breach. You are not entitled to a credit if the event giving rise to the credit would not have occurred but for your breach of the Agreement or misuse or improper administration of your Hosted System.

9.6 Logical Access. Rackspace may need logical access to your Hosted System to meet certain Service Level Agreements; no credit will be due if the credit would not have accrued but for your delay in providing, or refusal to provide, logical access to your Hosted System.

9.7 Requests/Currency. Sie müssen einen Antrag auf Gutschrift spätestens vierzehn (14) Tage nach dem Vorfall, für den Sie eine Gutschrift beantragen,

10. PROMISES WE DO NOT MAKE

10.1 We do not promise that the Services will be uninterrupted, error-free, or completely secure. You acknowledge that there are risks inherent in Internet connectivity that could result in the loss of your privacy, Confidential Information and property.

10.2 We disclaim any and all warranties not expressly stated in the Agreement to the maximum extent permitted by law, including the implied warranties relating to satisfactory quality and fitness for a particular purpose. You are solely responsible for the suitability of the services chosen. Any services that we are not contractually obligated to provide but that we may perform for you at your request and without any additional charge are provided on an 'AS IS' basis.

10.3 We do not have knowledge of the data you store within your Hosted System, including the quantity, value or use of the data. You are therefore responsible to take all reasonable steps to mitigate the risks inherent in the provision of the Services, including data loss.

10.4 Certain Rackspace Services are designed to help you comply with various regulatory requirements that may be applicable to you. However, you are responsible for understanding the regulatory requirements applicable to your business and for selecting and using those Services in a manner that complies with the applicable requirements.
10.5 Rackspace makes no representation or warranty whatsoever regarding open source software, OpenStack Software or the Rackspace Private Cloud Software.

10.6 At Customer’s request, Rackspace may provide services that are not required by this Agreement, but any such services shall be provided AS IS, with no warranty whatsoever.

10.7 Rackspace disclaims any and all warranties not expressly stated in this Agreement, including the implied warranties of merchantability, fitness for a particular purpose and non-infringement.

11 TERM AND TERMINATION

11.1 Term. The initial term of the Agreement begins on the Service Commencement Date and continues for the period stated in the Services Description. Upon expiration of the initial term, we may offer you the option of renewing the Agreement for one or more additional terms having a fixed number of months. If you do not renew the Agreement for a fixed term, it will automatically renew for successive extended terms of three (3) months each unless and until one of us provides the other with notice of non-renewal at least ninety (90) days in advance of the expiration of the initial term or then current extended term, as applicable. If you add Rackspace provided service elements to a Hosted System by a subsequent agreement, we may use the word "coterminous" to describe the initial term of the subsequent agreement for those additional elements. If the term of an agreement is "coterminous," the initial term of that agreement shall expire on the last day of the initial term of the agreement that initially established the Hosted System.

11.2 Termination for Convenience. Unless otherwise stated in a Service Description, Customer may terminate any Service Description for convenience at any time by giving Rackspace at least ninety (90) days advance written notice, provided that Customer shall not be entitled to any refund of fees upon a termination for convenience.

11.3 Early Termination Fee. If you terminate this Agreement for convenience or we terminate this Agreement for your breach, in addition to other amounts you may owe, you must pay an early termination fee equal to the total monthly
recurring fees for the remaining portion of the then-current term. You will not be charged an early termination fee under this Section in the event you terminate this Agreement as part of an agreement to establish a replacement for the Hosted System in a different Rackspace service segment, even if the overall fees for the replacement system are less than those for the Hosted System, provided that the replacement system is the functional equivalent of the Hosted System.

12. GEBühREN

12.1 Fees. Fee amounts are stated on the Service Description.

12.1.1 Your first invoice will include the initial one-time installation fee (if applicable) and a prorated monthly recurring fee from the Service Commencement Date to the last day of the calendar month. We may require you to make a payment ahead of the Service Commencement Date (an “Upfront Payment”). We will offset such Upfront Payment against the initial invoice(s) that we raise against your account. Following the Service Commencement Date, monthly recurring fees will be billed in advance at the beginning of each calendar month, unless otherwise specified. Non-recurring fees, which apply to Services that are priced on usage, will be billed monthly in arrears.

12.1.2 RPC Support Fees. Unless otherwise specified in a Service Description, Rackspace will invoice fees for Support Services monthly in arrears based on the number of physical servers included in Customers RPC configuration.

On or about the 10th day of each calendar month, Rackspace will send the Customer an email or a ticket requesting an update on the current Customer RPC configuration:

i) If there has been no increase or decrease in the number of physical servers included in the Customer RPC configuration then Customer shall confirm that the configuration remains unchanged.

ii) If there has been an increase or decrease in the number of physical servers included in the Customer RPC configuration, the Customer shall inform Rackspace of the current number of physical servers included in the Customer
RPC configuration, and shall update their RPC configuration map and submit it to Rackspace via their MyRackspace Portal.

Customer shall reply to the communication as described above within five Business Days of Customer’s receipt of the email or ticket in their MyRackspace portal.

12.1.3 Customer agrees that it shall not manipulate the number of servers for the purpose of reducing its fees and shall provide Rackspace access to the RPC upon Rackspace's request for the purposes of such count. Rackspace may also utilize a service agent which runs on the RPC for purposes of conducting such count, and Customer agrees to cooperate with Rackspace to ensure the functionality of such agent.

12.2 Die Gebühren sind innerhalb von fünf (5) Tagen ab dem Rechnungsdatum fällig. If you have arranged for payment by credit card or direct debit, Rackspace may charge your card or account on or after the invoice date.

12.3 If any amount is overdue by more than thirty (30) days, Rackspace may:

12.3.1 charge interest on overdue amounts at 1.5% per month;

12.3.2 suspend all Services, and services provided pursuant to any unrelated agreement, if you do not pay the overdue amount within four (4) Business Days of our written notice to your billing contact. You agree that if your Services are reinstated after a suspension for non-payment, you will pay a reasonable reinstatement fee.

12.4 In the event Rackspace brings a legal action to collect due to late payment of valid invoices, you must also pay Rackspace’s costs of collection, including reasonable legal fees, expenses and court costs.

12.5 If your payment is returned for insufficient funds, we may charge you an administration fee up to the maximum amount permitted by law.

12.6 All payments will be made in the currency in the Services Description at the exchange rate at the date of the invoice.
12.7 Invoices that are not disputed within one (1) year of invoice date are conclusively deemed accurate.

13. FEE INCREASES

13.1 Increase in Consumer Price Index. If during the initial term or any renewal term there is an increase in the Consumer Price Index as published by the National Office for Statistics over the Consumer Price Index reported for the month in which you signed your Agreement, we may increase your fees by the same percentage as the increase in the Consumer Price Index; provided that we may not increase your fees under this subsection more often than once per twelve (12) months, and we must give you at least thirty (30) days advance written notice of the increase. (Example: if the Consumer Price Index for the month in which you sign the Agreement is 186, and then increases in a subsequent month during the term of the Agreement to 195, we may increase your fees by up to 4.8%).

13.2 Increase after expiry of Term. If following the expiration of the initial term or any renewal term you do not sign a renewal of your Agreement, but continue to use your Services on a rolling three (3) month basis as described in Section 11 (Term) above, then we may increase your fees at any time by any amount, in our sole discretion, on ninety (90) days advance written notice.

13.3 Taxes. If Rackspace is required by law to collect taxes on the provision of the Services, you must pay Rackspace the amount of the tax that is due or provide Rackspace with satisfactory evidence of your exemption from the tax. You must provide Rackspace with accurate factual information to help Rackspace determine if any tax is due with respect to the provision of the Services.

14. SUSPENSION OF SERVICES

14.1 We may suspend Services without liability if:

14.1.1 we reasonably believe that the Services are being used in breach of the
Agreement;

14.1.2 you don’t cooperate with our reasonable investigation of any suspected violation of the Agreement;

14.1.3 there is an attack on your Hosted System or RPC or your Hosted System or RPC is accessed or manipulated by a third party without your consent;

14.1.4 we are required by law or a regulatory or government body to suspend your Services; or

14.1.5 there is another event for which we reasonably believe that the suspension of Services is necessary to protect the Rackspace network or our other customers.

14.2 We will give you advance notice of a suspension under this section of at least twelve (12) Business Hours unless we determine in our reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect Rackspace or its other customers from imminent and significant operational, legal, or security risk. If your Hosted System or RPC is compromised, then you must address the vulnerability prior to Rackspace recommencing Service provision or, at your request, we may be able to perform this work for you at our standard hourly rates as a Supplementary Service.

15. TERMINATION FOR BREACH

15.1 You may terminate the Agreement for breach if we:

15.1.1. materially fail to provide the Services as agreed and do not remedy that failure within ten (10) days of your written notice describing the failure;

15.1.2. fail to meet The Fanatical Support PromiseTM (subject to the conditions and procedures described at www.rackspace.co.uk/honour/); or

15.1.3. materially fail to meet any other obligation stated in the Agreement and do not remedy that failure within thirty (30) days of your written notice describing
15.2 We may terminate the Agreement for breach if:

15.2.1. we discover that the information you provided for the purpose of establishing the Services is materially inaccurate or incomplete;

15.2.2. the individual signing the Agreement did not have the legal right or authority to enter into the Agreement on behalf of the person represented to be the customer;

15.2.3. your payment of any invoiced amount is overdue and you do not pay the overdue amount within four (4) Business Days of our written notice;

15.2.4 you have made payment arrangements via credit card or other third party, and the third party refuses to honour our charges;

15.2.5. you fail to comply with any other obligation stated in the Agreement and do not remedy the failure within thirty (30) days of our written notice to you describing the failure;

15.2.6. you contravene Section 6 (Export Matters) above; or

15.2.7. your agreement for any other Rackspace service is terminated for breach of the acceptable use policy applicable to that service.

15.3 Either of us may terminate the Agreement with immediate effect on written notice if the other (or we reasonably believe that the other) (i) is unable to pay its debts; or (ii) enters into compulsory or voluntary liquidation; or (iii) compounds with or contravenes a meeting of its creditors; or (iv) has a receiver or manager or an administrator appointed (or an application is made to the court for the same); or (v) ceases for any reason to carry on business or takes or suffers any similar action which means that it may be unable to pay its debts - ("Insolvency Event").

15.4 Notwithstanding anything to the contrary within the Agreement, the fees for
the Services shall become due immediately upon the occurrence of an Insolvency Event.

16. CONFIDENTIAL INFORMATION

16.1 Each of us agrees not to use the other's Confidential Information except in connection with the performance or use of the Services, as applicable, the exercise of our respective legal rights under the Agreement, or as may be required by law. Each of us agrees not to disclose the other's Confidential Information to any third person except as follows:

16.1.1 to each of our respective service providers, agents and representatives, provided that such service providers, agents or representatives agree to confidentiality measures that are at least as stringent as those stated in this Agreement; or

16.1.2. to a law enforcement or government agency if requested, or if either of us reasonably believes that the other’s conduct may violate applicable criminal law;

16.1.3. as required by law; or

16.1.4. in response to a court order or other compulsory legal process, provided that each of us agrees to give the other written notice of at least seven (7) days prior to disclosing Confidential Information under this section (or prompt notice in advance of disclosure, if seven (7) days advance notice is not reasonably feasible), unless the law forbids such notice.

17. LIMITATION ON DAMAGES

17.1 Subject to section 17.2, but without prejudice to Rackspace’s right to the fees for the Services, including any early termination fee (if applicable) and your right to service credits under this Agreement and/or termination for our failure to meet the Fanatical Support Promise:

17.1.1 each party’s liability to the other for direct loss or damages whether in tort (including, without limitation, negligence), contract or otherwise, is limited to
and shall not exceed:

17.1.1.1 for Support Services, an amount that is twelve (12) times the monthly recurring fee under this Agreement as of the time of the occurrence of the event(s) giving rise to the claim; and

17.1.1.2 for Supplementary Services, the greater of five hundred British Pounds Sterling (£500 or the fees paid for the Supplementary Services that are the subject of the claim;

17.1.2 neither party will be liable to the other in any way for any special, incidental, economic, or indirect loss or damages, or for loss of data, loss of profits, revenues, customers or contracts, wasted management time, increased costs or expenses, whatsoever and howsoever arising including in connection with the performance, non-performance or delayed performance of the Services or otherwise under this Agreement even if that party has been advised by the other or should have reasonably been aware of the possibility of such loss.

17.2 Nothing in this Agreement limits or excludes either party’s liability for any loss or damages resulting from:

17.2.1 death or personal injury caused by its negligence; and

17.2.2 any fraud or fraudulent misrepresentation.

17.3 The service credits stated in this Agreement are your exclusive remedy for Rackspace’s failure to meet those guarantees for which service credits apply.

17.4 Termination of the Agreement is your exclusive remedy for Rackspace’s failure to meet The Fanatical Support Promise.

17.5 Rackspace agrees to have valid insurance cover in place for its own legal liability to you under this Agreement up to the limits set out in this section 17. As the fees for the Services properly reflect the delineation of risk between the parties, each party agrees to ensure that it will be responsible for making its own
arrangements for the insurance of any loss in excess of its accepted legal liability as necessary.

18. INDEMNIFICATION

18.1 If we, our affiliates, or any of our or their respective employees, agents, or suppliers (the "Indemnitees") is faced with a legal claim by a third party arising out of your actual or alleged negligence, breach of law, failure to meet the security obligations required by the Agreement, breach of the AUP, breach of your agreement with your customers or end users, or breach of Section 6 (Export Matters) or Section 20 (Software) of this RPC Service Agreement, then you will pay the cost of defending the claim (including reasonable legal fees) and any damages award, fine or other amount that is imposed on the Indemnitees as a result of the claim. Your obligations under this section include claims arising out of the acts or omissions of your employees or agents, any other person to whom you have given access to the Services, and any person who gains access to the Services as a result of your failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorised by you. You must also pay reasonable legal fees and other expenses we incur in connection with any dispute between persons having a conflicting claim to control your account with Rackspace, or any claim by your customer or end user arising from an actual or alleged breach of your obligations to them.

18.2 We will choose legal counsel to defend the claim, provided that these decisions must be reasonable and must be promptly communicated to you. You must comply with our reasonable requests for assistance and cooperation in the defence of the claim. We may not settle the claim without your consent, although such consent may not be unreasonably withheld, delayed or conditioned. You must pay reasonable legal fees and expenses due under this section as we incur them.

19. PUBLICITY

You agree that we may publicly disclose that we are providing Services to you and may use your name and logo to identify you as our customer in promotional materials, including press releases. We will not use your name or logo in a
manner that suggests an endorsement or affiliation.

20. SOFTWARE

You may not copy any software we provide for your use, unless expressly permitted by this Agreement. You may not remove, modify or obscure any copyright, trade mark, or other proprietary rights notices that appear on any software we provide for your use. Unless permitted by the terms of an open source software licence, you may not reverse engineer, decompile or disassemble any software we provide for your use except and to the extent that you are expressly permitted by applicable law to do this, and then following at least ten (10) days advance written notice to Rackspace.

21. RECOMMENDATIONS

Rackspace personnel may from time to time recommend third party software or other products and services for your consideration. RACKSPACE MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER REGARDING SUCH PRODUCTS AND SERVICES. Your use of any products and services not provided by Rackspace is governed by the terms of your agreement with the provider of those products and services, and is at your sole risk. Rackspace is not responsible in any way for the third party product’s performance, features nor failures.

22. WHO MAY USE THE SERVICES

You may permit your subsidiaries and affiliated companies to use the Services if you wish, however you are responsible for the acts or omissions of your permitted users. Rackspace will provide support only to you, not to your customers, subsidiaries or affiliates. There are no third party beneficiaries to the Agreement, meaning that your customers, subsidiaries, affiliates, and other third parties do not have any rights against either of us under the Agreement.

23. DATA PROTECTION
23.1 Each of us agrees to comply with our respective obligations under the Data Protection Act 1998 (the "Act") as applicable to personal data that it controls or processes as part of, or in connection with, its use or provision of the Services. Specifically, but without limitation, you must comply with the Act as it relates to personal data that you store or transfer using your Hosted System. You agree that, subject to the requirements of this paragraph and Rackspace’s obligations stated in Section 29 (Assignment, Subcontractors), Rackspace may give its affiliates and subcontractors outside of the European Economic Area (EEA) access to personal data you store on your Hosted System. For example, we may provide our US affiliates with access to your Hosted System so that the US affiliate may provide Support to you during our off office hours in the UK.

We agree that we will not provide access to personal data that you store on your Hosted System to any subcontractor or affiliate outside of the EEA unless that person meets the requirements stated below during the entire time that it has access to the personal data.

23.2 for personal data for which we are a “controller” under the Act, the affiliate or subcontractor to whom we transfer the personal data (i) is located in a country for which the European Commission has made a positive finding of adequacy, (ii) is located in the United States and has certified to the United States Department of Commerce that it adheres to the Safe Harbour framework developed by the United States Department of Commerce in coordination with the European Union, or (iii) has signed the standard contractual model sections for the transfer of personal data from either: (a) Rackspace to a processor, or (b) Rackspace to a controller who is based in a country outside the EEA that is not recognised as offering an adequate level of data protection; and

23.3 for personal data for which we are a “processor” under the Act, the affiliate or subcontractor that has access to the Hosted System has signed a data processing agreement with us. We have such an agreement in place with Rackspace US, Inc., and have posted a signed copy of that agreement at www.rackspace.co.uk/legal/subprocessing.

24. NO HIGH RISK USE
You may not use the Services in any situation where failure or fault of the Services could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, you may not use, or permit any other person to use, the Services in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices.

25. SERVICES MANAGEMENT AGENT/UNSUPPORTED SERVICES

25.1 You agree that you will not interfere with any services management software agent(s) that Rackspace installs on your Hosted System. Rackspace agrees that its agents will use only a minimal amount of computing resources, and will not interfere with your use of your Hosted System. Rackspace will use the agents to track the hardware and software that Rackspace provides, so that it can more efficiently manage various service issues, such as patching exceptions and product life cycles. Rackspace may also use the software to identify security vulnerabilities. Rackspace will not use the agents to view or capture your content or data. Your Services will become "unsupported" as described in this RPC Service Agreement if you disable or interfere with our service management software agents. You agree that Rackspace may access your Hosted System to reinstall services management software agents if you disable or interfere with their performance.

25.2 If you ask us to implement a configuration element (hardware or software) or hosting service in a manner that is not customary at Rackspace, or that is in "end of life" or "end of support" status we may designate the element or service as "unsupported", "non-standard", "best efforts", "reasonable endeavours", "one-off", "EOL", "End of Support" or with like term in the Services Description (each and together an "Unsupported Service"). Rackspace makes no representation or warranty whatsoever regarding Unsupported Service so designated, and you agree that Rackspace shall not be liable to you for any loss or damage arising from the provision of the Unsupported Service. The Service Level Guarantees shall not apply to the Unsupported Service, or any other aspect of the Hosting Services that is adversely affected by the Unsupported Service. You acknowledge that Unsupported Services may not interoperate with Rackspace’s other services such as monitoring.
26. NOTICES

Your routine communications to Rackspace regarding the Services, including any notice of non-renewal, should be sent to your Rackspace account team using the MyRackspace portal. If you want to give a notice regarding termination of the Agreement for breach, indemnification, or other non-routine legal matter, you should send it by electronic mail and first class post to:

legalnotices@rackspace.co.uk

Vice President International, Legal & Company Secretary
Rackspace Limited
Unit 5 Millington Road
Hyde Park Hayes
Hayes
UB3 4AZ

Rackspace’s routine communications regarding the Services and legal notices will be posted on the MyRackspace portal or sent to the individual(s) you designate as your contact(s) on your account either by electronic mail (including an electronic mail referring you to a ticket posted on your MyRackspace portal), first class post, or overnight courier. Notices are deemed received as of the time posted or delivered, or if that time does not fall on a Business Day, as of the beginning of the first Business Day following the time posted or delivered. For purposes of counting days for notice periods, the Business Day on which the notice is deemed received counts as the first day. Notices must be given in the English language.

27. OWNERSHIP OF INTELLECTUAL PROPERTY

27.1 Each of us retains all right, title and interest in and to our respective trade secrets, inventions, copyrights and other intellectual property. Any intellectual property developed by Rackspace during the performance of the Service(s) shall belong to Rackspace unless we have agreed with you in advance in writing that you shall have an interest in the intellectual property.
27.2 In addition to If and to the extent a party contributes any Intellectual Property to the OpenStack project, the other party shall have those license rights defined in the Apache 2.0 license.

28. INTELLECTUAL PROPERTY INFRINGEMENT

If Rackspace is faced with a credible claim that the Services infringe the intellectual property rights of a third party, and Rackspace is not reasonably able to obtain the right to use the infringing element or modify the Services such that they do not infringe, then Rackspace may terminate the Services on reasonable notice of at least ninety (90) days, and will not have any liability on account of such termination except to refund amounts paid for Services not used as of the time of termination.

29. ASSIGNMENT/SUBCONTRACTORS

Neither party may assign the Agreement without the prior written consent of the other party except that Rackspace may assign the Agreement to an Affiliate with sufficient financial standing in order to meet its obligations under this Agreement or as part of a bona fide corporate reorganisation or a sale of its business. We may transfer your Confidential Information as part of any such transaction. Rackspace may use third party service providers to perform all or any part of the Services, but Rackspace remains responsible to you under this Agreement for Services performed by its third party service providers to the same extent as if Rackspace performed the Services itself.

30. FORCE MAJEURE

Neither of us will be in breach of the Agreement if the failure to perform the obligation is due to an event beyond our control, such as significant failure of a part of the power grid, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organised labour action, terrorism, or other events of a magnitude or type for which precautions are not generally taken in the industry.

31. GOVERNING LAW, LAWSUITS
The Agreement is governed by the English law and each of us expressly and unconditionally submits to the exclusive jurisdiction of the courts of England and Wales except that Rackspace may seek to enforce any judgment anywhere in the world where you may have assets. Each of us agrees that it will not bring a claim under the Agreement more than two (2) years after the event giving rise to the claim occurred.

32. SOME AGREEMENT MECHANICS

32.1 Changes to Terms on Website. Some terms are incorporated into the Agreement by reference to pages on the Rackspace website. Although we may from time to time revise the terms posted on those web pages, those revisions will not vary the Agreement until the first day of any renewal or extended term that follows the date that we publish the revision.

If over time you sign multiple Agreements for a single RPC—for example to add service elements or support levels, then the version of the Terms referenced in the last signed Service Description will govern the entire RPC, unless otherwise agreed in writing.

32.2 Modifications. Unless otherwise expressly permitted in this Agreement, the Agreement may be amended only by a formal written agreement signed by both parties. A Services Description may be amended to modify, add, or remove services by a formal written agreement signed by both parties, or by an exchange of correspondence, including via electronic mail or the Rackspace ticketing system, that includes the express consent of an authorised individual for each of us. The pre-printed terms on your purchase order or other business forms will not become part of this Agreement.

32.3 The Agreement constitutes the complete and exclusive agreement between the parties regarding the subject matter and supersedes and replaces any prior understanding or communication, written or oral. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of Rackspace which is not set out in the Agreement.
32.4 If there is a conflict between the terms of a Service Description and this RPC Services Agreement, then this RPC Services Agreement shall control.

32.5 Unenforceable Provisions. If any part of the Agreement is found unenforceable by a court, the rest of the Agreement will nonetheless continue in effect, and the unenforceable part shall be reformed to the extent possible to make it enforceable but still consistent with the business and financial objectives of the parties underlying the Agreement.

32.6 No Waiver. Each party may enforce its respective rights under the Agreement even if it has waived the right or failed to enforce the same or other rights in the past.

32.7 No Partnership. The relationship between the parties is that of independent contractors and not business partners. Neither party is the agent for the other, and neither party has the right to bind the other to any agreement with a third party.

32.8 Interpretation. The captions in the Agreement are for convenience only and are not part of the Agreement. The use of the word "including" in the Agreement shall be read to mean "including without limitation." The words "our" and "us" refer to Rackspace unless the context clearly indicates another meaning.

32.9 Survival. The following terms shall survive expiration or termination of the Agreement: Sections 12, 13, 16, 17, 18, 21, 26, 27, 28, 30, 31, and 32 of this RPC Service Agreement, all terms of the Agreement requiring you to pay any fees for Services provided prior to the time of expiration or termination or requiring you to pay an early termination fee, and all other provisions of the Agreement that by their nature are intended to survive expiration or termination of the Agreement.

32.10 Changes Not Made Known. If you have made any change to the Agreement that you did not bring to Rackspace’s attention in a way that is reasonably calculated to put Rackspace on notice of the change, the change shall not form part of the Agreement.
32.11 Counterparts. The Agreement may be signed in multiple counterparts, which taken together will be considered one original. Facsimile signatures, signatures on an electronic image (such as .pdf or .jpg format), and electronic signatures shall be deemed to be original signatures.