

GENERAL TERMS AND CONDITIONS OF USE OF THE OUTSCALE MARKETPLACE

In application of Outscale's [General Terms and Conditions of Sale](#)

Welcome to OUTSCALE's MARKETPLACE, a service provided by OUTSCALE, a simplified joint stock company with a sole shareholder and share capital of 1,849,930 euros, registered at the trade and companies registry of Nanterre under number B 527 594 493, having its registered office at 1 rue Royale - 319 Bureaux de la Colline 92210 Saint-Cloud and which is a Cloud Computing operator.

OUTSCALE's activity includes the development of proprietary orchestrator software (TINA), the provision of Infrastructure as a Service (IaaS) as well as related professional services.

OUTSCALE has designed and developed the MARKETPLACE, an online marketplace on which to present and sell PUBLISHER PRODUCTS which can be used with the OUTSCALE IAAS by CLIENTS. The OUTSCALE MARKETPLACE is destined for PUBLISHERS and CLIENTS acting in their professional capacity and who are already clients of OUTSCALE.

Thanks to this MARKETPLACE, OUTSCALE intends to provide its clients easy access to a range of third party applications and services which can complete the services offered by OUTSCALE, thus helping them to accelerate their adoption of cloud technology and obtain the most from their cloud projects.

1. DEFINITIONS

For the interpretation of these general terms and conditions of use, the terms and expressions below must be interpreted with reference to their respective definitions, which are binding, when said terms begin with a capital letter; they are completed by the definitions of OUTSCALE's general terms and conditions and the technical glossary provided in OUTSCALE's PUBLIC DOCUMENTATION which is accessible via the following link:
<https://docs.outscale.com/fr/userguide/Accueil.html>

MARKETPLACE GENERAL TERMS AND CONDITIONS OF USE or MARKETPLACE GTC designate these general terms and conditions of use and their appendices.

OUTSCALE GENERAL TERMS AND CONDITIONS OF SALE or OUTSCALE GTC designate OUTSCALE's general terms and conditions of sale accessible via the link <https://fr.outscale.com/cgucgv/> of which the CLIENT acknowledges acceptance.

CLIENT(S) shall have the meaning attributed in the OUTSCALE GTC.

ACCOUNT designates the technical account created by a USER making it possible to connect to the MARKETPLACE and use the MARKETPLACE SERVICES.

CONTENT designates content of any kind whatsoever integrated by the USER on the MARKETPLACE, including the ACCOUNT information and PUBLISHER PRODUCTS.

PUBLISHER(S) designates any legal entity which designs, develops and markets the software products (OMI) presented on the MARKETPLACE.

OUTSCALE IAAS (also referred to as OUTSCALE INFRASTRUCTURE in the OUTSCALE GTC) designates the services supplied by OUTSCALE which enable the CLIENTS to use the different PUBLISHER PRODUCTS on the MARKETPLACE.

PRODUCT LICENSE designates the agreement entered into between the PUBLISHER and the CLIENT authorizing the CLIENT to use the PUBLISHER PRODUCT according to the terms and conditions defined in said agreement.

MARKETPLACE designates the online marketplace designed, developed and run by OUTSCALE through which the USERS can make use of the MARKETPLACE SERVICES.

PUBLISHER PRODUCT(S) designate all the products presented by the PUBLISHERS on the MARKETPLACE which may be purchased by the CLIENTS.

MARKETPLACE SERVICES designate all the services supplied on the MARKETPLACE enabling the PUBLISHERS to present the PUBLISHER PRODUCTS and the CLIENTS to request subscriptions for PUBLISHER PRODUCTS and/or ask to use the PUBLISHER PRODUCTS associated with the OUTSCALE IAAS.

USER(S) designates any person with access to the MARKETPLACE and who uses it, including PUBLISHERS and CLIENTS.

2. OBJECT

These MARKETPLACE GTC define the conditions in which the PUBLISHERS and the CLIENTS can use the MARKETPLACE and in particular the conditions in which:

- The PUBLISHER can present its PUBLISHER PRODUCTS on the MARKETPLACE for the purpose of selling said PUBLISHER PRODUCTS in the conditions defined herein,
- The CLIENT can visualize the PUBLISHER PRODUCTS and purchase them in the conditions defined herein.

3. ACCEPTANCE AND MODIFICATION OF THE GENERAL TERMS AND CONDITIONS OF USE

By using the MARKETPLACE, supplying OUTSCALE information or using the MARKETPLACE SERVICES, the USER agrees to comply with the MARKETPLACE

GTC. USERS who do not accept the MARKETPLACE GTC must not use the MARKETPLACE or make use of the MARKETPLACE SERVICES.

These MARKETPLACE GTC may be updated and modified by OUTSCALE from time to time. Any modification of the MARKETPLACE GTC will be published on the MARKETPLACE and will be deemed to have been accepted by any USER who continues to use the MARKETPLACE and/or the MARKETPLACE SERVICES.

4. REGISTRATION, PASSWORD AND SECURITY

4.1 In order to use the MARKETPLACE SERVICES, USERS must (i) be OUTSCALE CLIENTS who have subscribed to OUTSCALE IAAS and (ii) create an ACCOUNT and supply certain information, including but not limited to an ACCOUNT name and a password. The USER undertakes to (i) supply truthful, accurate, current and complete information, and to (ii) maintain and update the profile rapidly to ensure it is accurate, current and complete. USERS are fully responsible for keeping their passwords and ACCOUNTS confidential.

4.2 By creating an ACCOUNT, USERS warrant and represent (i) that they are at least 18 years old, (ii) that they are duly authorized and have the powers and authorization to accept these MARKETPLACE GTC, including in the name of their organization, (iii) that they have first subscribed to OUTSCALE IAAS and that their subscription is still valid, and (iv) that they are not barred from receiving products and services under the laws of any applicable jurisdiction.

4.3 USERS alone are responsible for keeping the information contained on their ACCOUNT and their passwords confidential. Any activity carried out with the connection to the USER ACCOUNT or via their password is deemed to have been carried out by the USER and is under the USER's responsibility alone.

5. DESCRIPTION OF THE MARKETPLACE SERVICES

5.1 Request for subscription of PUBLISHER PRODUCTS

The MARKETPLACE is used to present the PUBLISHER PRODUCTS for which CLIENTS can apply for a subscription in the conditions defined below:

5.1.1 Subscription requests submitted to PUBLISHERS

Certain PUBLISHER PRODUCTS available on the MARKETPLACE require the CLIENT to send a subscription form to the PUBLISHERS of the PUBLISHER PRODUCTS.

In this case, the MARKETPLACE allows the CLIENT to be redirected to the PUBLISHER's website on which the PUBLISHER PRODUCT selected by the CLIENT is on sale, for the purposes of subscribing a PRODUCT LICENSE.

5.1.2 Subscription requests submitted to OUTSCALE

Certain PUBLISHER PRODUCTS available on the MARKETPLACE can be purchased by the CLIENT from OUTSCALE. In this case, the CLIENT must fill out a subscription form for the PUBLISHER PRODUCT(S) selected. The CLIENT will be contacted by OUTSCALE for the purposes of subscribing a PRODUCT LICENSE.

5.2 PUBLISHER PRODUCTS subscriptions and Payment

PUBLISHER PRODUCTS can be subscribed from the PUBLISHERS or OUTSCALE depending on the PUBLISHER PRODUCTS selected by the CLIENT.

5.2.1 *PUBLISHER PRODUCT subscriptions from the PUBLISHER*

The CLIENT subscribes to the PUBLISHER PRODUCTS concerned by signing, in the conditions defined by the PUBLISHER, the financial and commercial conditions and the PUBLISHER's PRODUCT LICENSE.

5.2.2 *PUBLISHER PRODUCT subscriptions from OUTSCALE*

The CLIENT subscribes to the PUBLISHER PRODUCTS concerned by signing, in the conditions defined by OUTSCALE, OUTSCALE's financial and commercial conditions and the PUBLISHER's PRODUCT LICENSE.

5.3 Use of the PUBLISHER PRODUCTS

Once the subscription process has been completed, the CLIENT uses the PUBLISHER PRODUCT as part of the OUTSCALE IAAS in accordance with the terms and conditions of these MARKETPLACE GTC, the OUTSCALE GTC and the PRODUCT LICENSE.

6. USE OF THE MARKETPLACE AND THE SERVICES

USERS alone are responsible for the CONTENT they post on the MARKETPLACE and their conduct on the MARKETPLACE. In particular, the USER undertakes not to:

- Upload, reproduce, post, display, license, sublicense or otherwise make available any content that is offensive, inappropriate, unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable or contrary to all applicable laws and regulations;
- Forge headers or otherwise manipulate identifiers to disguise the origin of any CONTENT uploaded through the MARKETPLACE;
- Be harmful to any person in any way;
- Upload, reproduce, post, display, license, sublicense or otherwise make available CONTENT (i) that the law or a contractual stipulation prohibits them from disclosing, (ii) that would infringe rights to patents, trademarks, business secrets or other exclusive third party rights, or (iii) that contain

viruses or other computer code, files or programs destined to interrupt, limit or destroy the functionality of computer software or hardware or telecommunications equipment;

- To interfere with or disrupt the MARKETPLACE, the MARKETPLACE SERVICES or the servers/networks connected to the MARKETPLACE SERVICES, or disobey any requirements, procedures, policies or regulations of networks connected to the MARKETPLACE SERVICES;
- Modify, adapt or hack the MARKETPLACE or modify another website so as to falsely imply that it is associated with the MARKETPLACE;
- Use the elements available on the MARKETPLACE (including but not limited to textures files) unless the USER is expressly authorized to do so by the MARKETPLACE or through a separate license;
- Obtain or attempt to obtain any materials or information through any means not intentionally made available through the MARKETPLACE SERVICES ;
- Stalk or otherwise harass another;
- Create, send or submit unwanted email to another USER of the MARKETPLACE or MARKETPLACE SERVICES;
- Conduct anti-competitive or unfair market practices on the MARKETPLACE;
- Feature personal data in the PUBLISHER PRODUCTS files;
- Feature misleading or inaccurate information in the PUBLISHER PRODUCTS files;
- Collect or store personal data about other USERS of the MARKETPLACE or the MARKETPLACE SERVICES in connection with the prohibited conduct and activities set forth above;
- Violate in any manner any applicable laws.

OUTSCALE reserves the right, without warning, to modify, unpublish or remove any CONTENT published by a USER which is considered by OUTSCALE to be inappropriate, incorrect or contrary to these general terms and conditions of use.

7. RIGHTS TO THE MARKETPLACE AND USE OF THE MARKETPLACE

The MARKETPLACE, the MARKETPLACE SERVICES as well as any software, data, or the content supplied by OUTSCALE and used in the framework of the MARKETPLACE correspond to exclusive and confidential information belonging to OUTSCALE and is protected by the applicable intellectual property rights and other laws and regulations in force.

With the exception of the CONTENT and any other information supplied by the USER, OUTSCALE and its suppliers remain the holders of all intellectual property rights to the content of the MARKETPLACE and the MARKETPLACE SERVICES, including but not limited to data, the website design text, software in object and source code (including applets) scripts, downloads, graphics, photos, interactive features and their selection and arrangement, the trademarks, trade names, trade dress, service marks including all modifications, improvements or other derivative work.

All rights that are not expressly granted to the USER in these MARKETPLACE GTC are reserved.

The USER cannot:

- Copy, sell, distribute, sublicense, post, display, frame or use for purposes other than expressly provided in these MARKETPLACE GTC, any information or element supplied by OUTSCALE in connection with the MARKETPLACE or the MARKETPLACE SERVICES;
- Use any meta tags or any other 'hidden text' utilizing the OUTSCALE name or trademarks without prior express written consent from OUTSCALE;
- Use robots, data mining or similar data collection and/or extraction tools.

The USER is authorized to print and download extracts from the MARKETPLACE for personal use on the following basis:

- a) No documents or related graphics on the MARKETPLACE are modified in any way;
- b) No graphics on the MARKETPLACE are used separately from the corresponding text;
- c) Copyright and trademark notices and OUTSCALE's permission notice must appear in all copies.

8. COMMUNICATION

OUTSCALE and the USER mutually grant each other a worldwide license, free of charge, for the non-exclusive, non-transferrable use, on any media, for the duration of this agreement linking the USER to OUTSCALE, of their trademarks, names, logos and domain names solely for promotion or marketing purposes in connection with the PUBLISHER PRODUCTS or the MARKETPLACE and in accordance with their respective graphic charter.

The USER undertakes to obtain validation from OUTSCALE for (i) any use of trademarks, logos, names and distinctive signs belonging to OUTSCALE or the MARKETPLACE and (ii) any communication which reproduces said trademarks, logos, names and distinctive signs or those which are linked to OUTSCALE and the relationship between the USER and OUTSCALE (including but not limited to any communication linked to OUTSCALE's certifications/qualifications). Each communication must be validated beforehand by OUTSCALE's Marketing and Communication department. Requests for validation must be sent to the following email: marketing@outscale.com.

9. USE OF USER CONTENT

The USERS are the owners of the intellectual property rights linked to their CONTENT. The publication of the CONTENT by the USER via the MARKETPLACE

SERVICES does not imply or result in any transfer of intellectual property rights to OUTSCALE or to third parties, unless otherwise stipulated in the MARKETPLACE GTC.

By posting CONTENT to the MARKETPLACE, the USER grants OUTSCALE a worldwide, loyalty-free, sub-licensable, transferable and non-exclusive license to use, copy, modify or adapt the CONTENT to OUTSCALE's standards and graphic charter on any media and using any means, as part of the setting up, running or promotion of the MARKETPLACE, for the duration of the legal protection of the intellectual property rights relating to the CONTENT. The USERS represent and warrant that they have sufficient rights to grant the abovementioned rights to OUTSCALE and that the CONTENT posted by them complies with applicable laws and regulations and does not violate any intellectual property or other third party rights.

In the context of the use of the MARKETPLACE SERVICES, the USER recognizes and accepts that OUTSCALE may offer additional features linked to the CONTENT, which aim to facilitate the transaction (such as supplying a price estimate module). These MARKETPLACE SERVICES are supplied free of charge and provided "as is" without any warranty or representation of any kind and OUTSCALE shall bear no responsibility in connection with these MARKETPLACE SERVICES.

The provision of CONTENT on the MARKETPLACE is the responsibility of the USER alone. The USER alone is responsible for the accuracy, integrity and quality of the CONTENT and for not violating any law or third party rights.

10. PERSONAL USER DATA

OUTSCALE acts as data controller for the processing of the USERS' personal data.

OUTSCALE undertakes to process the USERS' personal data in accordance with the applicable personal data processing regulations and in particular the amended French data protection act n°78-17 of January 6, 1978 and Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 -hereafter the "General Data Protection Regulation") and in accordance with its personal data protection policy available at the following address: <https://fr.outscale.com/cgucgv/>

In this context, USERS have the right of access, rectification, restriction, objection and erasure in relation to their personal data.

The purpose of collecting these data is to operate the MARKETPLACE. In particular for:

- the management of the relation with the USER (in particular security, the improvement of services, assistance, support, commercial management, etc.) in this context, the data are kept by OUTSCALE for the duration of these general terms of use linking the USER and OUTSCALE in addition to any applicable limitation period. These data are processed in accordance with

the regulations governing the execution of these general terms and conditions of use.

- compliance with specific legal obligations (accounting, invoicing, dispute management, etc.). In this context, the data are kept by OUTSCALE in accordance with applicable law.

All requests in connection with personal USER data, in particular for the exercise of USER rights, are managed by OUTSCALE's Data Protection Officer who can be contacted at the following address: donnees-personnelles@outscale.com.

11. LIMITATION OF LIABILITY AND WARRANTY

OUTSCALE does not guarantee that the MARKETPLACE, its CONTENT and/or its MARKETPLACE SERVICES are error-free and does not bear any liability with respect to any error, omission, loss or damage stemming from the use by the USER of the MARKETPLACE, its CONTENT and/or the MARKETPLACE SERVICES, including damages caused by virus or disruptive code. OUTSCALE shall use all reasonable endeavors to correct any error or omission within the MARKETPLACE as soon as reasonably practicable after being notified of them.

OUTSCALE excludes all liability relating to use of the CONTENT of the MARKETPLACE. OUTSCALE does not guarantee that (i) the results of the use of the MARKETPLACE or its CONTENT, or the MARKETPLACE SERVICES will satisfy the requirements or needs of the USER or enable the USER to achieve a particular goal or (ii) the MARKETPLACE, its CONTENT or the MARKETPLACE SERVICES will be without interruption or error-free.

The USER alone is responsible for evaluating and taking into account the risks associated with the use of all CONTENT or MARKETPLACE SERVICES, including the availability, accuracy and exhaustiveness of this CONTENT. OUTSCALE excludes all warranties in relation to the MARKETPLACE or to the MARKETPLACE SERVICES, including but not limited to any implied warranties of merchantability, fitness for a particular purpose, warranty of title or non-infringement. The USER uses the MARKETPLACE at its sole risk.

The above limitations apply to the maximum extent permitted by applicable law.

To the extent permitted by the applicable law, OUTSCALE excludes all liability relating to any type of loss or damage caused to the USER or a third party in relation with the MARKETPLACE, its CONTENT and/or the MARKETPLACE SERVICES, including but not limited to any indirect loss or damages, loss of profits, expenses, loss of, data, software packages, damaged or lost hardware, including the costs incurred to recover, reproduce or repair these losses or damages, whether in tort (including but not limited to negligence), contract or otherwise.

The USER undertakes to defend, indemnify and hold OUTSCALE harmless from and against all claims, costs, losses, damages, judgements, penalties, interest and expenses (including reasonable lawyers' fees) linked to any claim stemming from

or related to (i) any actual or presumed breach of the MARKETPLACE GTC or (ii) other sales channels, or the PUBLISHERS' websites, PUBLISHER PRODUCTS, or any CONTENT posted on the MARKETPLACE, any violation of intellectual property or other ownership rights by the PUBLISHER PRODUCTS, or any CONTENT supplied by the USER.

The USER recognizes that OUTSCALE and its MARKETPLACE will not make any reimbursement for PUBLISHER PRODUCTS.

12. LINKING TO THE MARKETPLACE

USERS may link to the MARKETPLACE if they do not replicate the home page of the MARKETPLACE and subject to the following conditions:

- (a) Do not remove, distort or otherwise alter the size or appearance of the OUTSCALE logos;
- (b) Do not create a frame or any other browser or border environment around the MARKETPLACE;
- (c) Do not in any way imply that OUTSCALE is endorsing any products or services that are products or services belonging to the PUBLISHERS or to third parties;
- (d) Do not misrepresent the relationship between the USER and OUTSCALE or present any other false information about OUTSCALE;
- (e) Do not otherwise use any of OUTSCALE's trademarks displayed on the MARKETPLACE without the prior, express written permission of OUTSCALE;
- (f) The USER website must not contain content that is distasteful, offensive or controversial towards OUTSCALE or any third party, nor infringe any intellectual property rights or other rights of any other person or otherwise fail to comply with all applicable laws and regulations.

OUTSCALE expressly reserves the right to revoke the right granted in this clause for breach of these MARKETPLACE GTC and to take any action that it deems appropriate. The USER shall fully indemnify OUTSCALE for any loss or damage suffered in the event of breach of this clause.

13. ELECTRONIC COMMUNICATIONS

By using the MARKETPLACE or the MARKETPLACE SERVICES or by sending emails to OUTSCALE, the USER is communicating with OUTSCALE electronically. The USER consents to receive communications from OUTSCALE electronically.

OUTSCALE will communicate with the USERS by email or by posting notices on the MARKETPLACE. The USER agrees that, to the extent permitted by applicable law, all agreements, notices, disclosures and other communications provided by OUTSCALE electronically satisfy any legal requirement that such communications

be in writing.

14. ACCOUNT CLOSURE

To close their ACCOUNTS, USERS must send a request in writing to the following address: sales-eu@outscale.com.

OUTSCALE reserves the right to terminate the ACCOUNT and, as a result, the USER's capacity to submit subscription requests for PUBLISHER PRODUCTS via the MARKETPLACE in the event that the USER breaches any of its obligations defined in the MARKETPLACE GTC. The USER undertakes to indemnify OUTSCALE for any loss, damage or consequences suffered by OUTSCALE stemming from breach of the MARKETPLACE GTC by the USER.

15. THE FIGHT AGAINST FRAUD AND MONEY LAUNDERING

Users must comply with anti-fraud and money laundering laws. In particular, USERS undertake to reply immediately and diligently to any request by OUTSCALE or any legal (or administrative) authority concerning their activity.

In the event of an error in the processing of a MARKETPLACE SERVICE, any presumed fraudulent access, or the unauthorized use of an ACCOUNT or any other event likely to lead to such a use, such as but not limited to the loss, accidental disclosure or misappropriation of ACCOUNT connection information, unauthorized access to all or part of their ACCOUNT or an unauthorized transaction, USERS must inform OUTSCALE as soon as possible by email to the following address: sales-eu@outscale.com. OUTSCALE may, at its discretion alone, deactivate or block access to the ACCOUNT.

In the event of fraudulent use or serious negligence by the USER, the USER shall bear any loss resulting from the unauthorized transactions carried out after having informed OUTSCALE, notwithstanding OUTSCALE's obligation to use all reasonable endeavors to prevent any other use of the ACCOUNT. Any amount resulting from fraudulent transactions or laundering operations will be frozen until a final legal or administrative decision has been made.

16. EXPORT CONTROL

The exchange of information under the MARKETPLACE GTC is subject to all applicable export rules and regulations. The USER undertakes not to disclose or transmit on the MARKETPLACE or via the MARKETPLACE SERVICES any information that requires an export license or any government authorization without obtaining such license or authorization beforehand.

17. SEVERABILITY

If any stipulation of the MARKETPLACE GTC is declared unlawful, void or ineffective by a court of competent jurisdiction, the other stipulations shall remain in full force and the stipulation in question will be modified in order to make it applicable and effective as far as possible in order to reflect the initial intention of the parties.

18. APPLICABLE LAW AND FORUM

Any claim relating to the PUBLISHER PRODUCTS shall be sent exclusively and directly to the PUBLISHER.

The MARKETPLACE GTC shall be governed and interpreted in all respects in accordance with French law for any dispute stemming from the use of the MARKETPLACE.

The parties shall seek an amicable solution to any dispute arising between them in relation to the existence, validity, interpretation or execution of these general terms and conditions of use.

If an amicable solution cannot be reached, any dispute in connection with the formation, interpretation or execution of the MARKETPLACE GTC shall be submitted to the courts within the jurisdiction of the Versailles Court of Appeal, which has exclusive jurisdiction, including summary judgements, notwithstanding the introduction of third parties or multiple defendants, and shall be governed by French law.