



# RACKSPACE PRIVATE CLOUD POWERED BY VMWARE PRODUCT TERMS

In addition to any other terms and conditions of Customer's Agreement with iret, these Product Terms shall apply when Customer purchases Rackspace Private Cloud powered by VMware Services.

## 1. DEFINED TERMS.

**"Clone"** means the process of creating an identical copy of an existing virtual machine.

**"Cluster"** means the servers and devices which act as the hypervisors that host the virtual systems (which are provided by KDDI and managed by iret and Rackspace).

**"Handbook"** means those applicable portions of the RPC-VMware Services Handbook (presently found at the following URL: <https://developer.rackspace.com/docs/rpc-vmware/rpc-vmware-customer-handbook/>) as it may be updated by Rackspace. The contents of the Handbook are incorporated into these Product Terms by reference as updated from time to time.

**"Management Services"** means the servers and devices dedicated to managing the RPC-VMware environment (including vCenter Server, vCenter Cloud Foundations, and any optional services).

**"RPC-VMware"** means the Rackspace Private Cloud powered by VMware Services including the provisioning of VMware software components and associated support activities as described in the Services Description and the Handbook.

**"RPC-VMware Environment"** means the Customer Configuration supported by RPC-VMware.

**"Service Commencement Date"** means the date on which iret-provides Customer with logical access to Customer Configuration.

**"Virtual Machine Snapshot"** means the file-based snapshot of the state, disk data, and configuration of a virtual machine at a specific point in time.

**"Virtual Systems"** means any virtual machines and instances provisioned within the RPC-VMware Environment.

## 2. SERVICES.

**2.1 General.** Any terms regarding "virtualization" or the pricing of those services described in Customer's other Product Terms or other agreement with iret do not govern RPC-VMware. RPC-VMware provides Customer with direct access to the provisioned VMware components and Customer may independently deploy and manage the status of the Virtual Systems. iret shall provide support as described in the Handbook and these Product Terms.

## 3. LICENSING.

**3.1 License Fees.** Customer must properly license each hypervisor in accordance with the type of virtual servers used. Customer is solely responsible for determining the appropriate number and type of licenses required for the RPC-VMware Environment, and is solely responsible for supplying and payment of any operating system licenses used in the Customer Configuration. If iret determines that the RPC-VMware Environment is improperly licensed, iret may adjust Customer's account to add additional licenses on Customer's behalf and Customer agrees to pay for the additional license fees at iret's then current rates.

**3.2 VMware License Fees.** Customer must properly license each VMware software component through iret. Customer may not use licenses Customer provides in the RPC-VMware supported Customer Configuration.

**4. API.** Customer has direct access to the RPC-VMware components via the VMware APIs. APIs may change when patches or updates are applied. Customer is solely responsible for determining the compatibility of the APIs and any patches with regards to Customer's RPC-VMware Environment, and Customer must review VMware provided documentation regarding such patches or updates to determine if any changes to the APIs will impact Customer's use of RPC-VMware.

**5. USE OF MANAGEMENT TOOLS.** iret does not provide support for any non-iret provisioned management tools. If Customer's use non-iret provisioned/approved tools to access or control the RPC-VMware Environment interferes with the operation of the RPC-VMware Environment or iret's delivery of the Services, then RPC-VMware shall become an Unsupported Service.

**6. BILLING.** Following Service Commencement Date, iret shall charge Customer a monthly recurring fee for the Services, including applicable license fees. Virtual Systems deployed on the RPC-VMware Environment shall not incur individual usage fees from iret. Customer's use of the Services shall not change Customer's current billing process for virtual servers not used in connection with RPC-VMware. If Customer uses the Services in conjunction with other systems (such as third party clouds), Customer is responsible for all usage fees based on Customer's agreement with Customer's provider and agrees that iret has no liability whatsoever for the use of the Services outside of the Customer Configuration.

**7. VM TEMPLATES.** Customer has access to complementary templates from which new virtual machines can be created. Customer may also upload Customer's templates to the RPC-VMware Environment. iret makes no guarantees of the serviceability, reliability, compatibility or support for virtual machines created from the either such templates.

**8. MAINTENANCE.** iret shall periodically perform certain maintenance activities (such as upgrading supported software to the most current supported version) to enable the proper functioning of the RPC-VMware Environment. During these maintenance activities, Customer's virtual machines shall remain unaffected but access to management functions, user interfaces and API's may be temporarily inaccessible when a host restart is required. If there is a hardware failure in elements of the Customer Configuration, iret may be unable to provide some or all of the RPC-VMware Services until hardware repair or replacement has completed, and in some cases performance impacts may continue following repair or replacement during system recovery.

## **9. ADDITIONAL REQUIREMENTS.**

**9.1 Configuration.** Customer is responsible for ensuring the RPC-VMware environment has the sizing and configuration to meet the capacity and performance needs of Customer's workloads. This includes ensuring sufficient compute, storage and network resources are available and that Customer's Virtual Systems and underlying components are within the maximum limits set by VMware. Customer is responsible for notifying iret if additional resource capacity or changes to Customer's configuration are needed to meet Customer's capacity and performance requirements. As newer versions of the VMware software are released, resource consumption may increase, requiring additional physical or virtual resources. Customer must use RPC-VMware in accordance with the Handbook and any RPC-VMware product documentation provided to Customer by iret and as updated from time to time.

**9.2 Compatibility.** Customer is responsible for ensuring the compatibility of RPC-VMware with any other Services that Customer purchases. iret can assist in determining the compatibility of services, please contact Customer's iret account team for further details.

**9.3 Virtual Systems.** Customer is responsible for all tasks related to the Virtual Systems, including creation, deletion, monitoring and security of the Virtual Systems.

**9.4 Administration Rights.** Customer is responsible for administration of the Cluster resources and the content and use of the virtual machine templates created by Customer. With the RPC-VMware administration features Customer may also copy, delete, and create Virtual Machine Snapshots. Customer is solely responsible for monitoring storage capacity and for deleting Virtual Machine Snapshots as needed. When administering resources Customer is responsible for determining the amount of resources to be allocated to individual Virtual Systems and for monitoring the resources used. Applications installed on a virtual machine may not function after Cloning. Customer is solely responsible for testing the functionality of all Cloned virtual machines. iret is not liable for any performance issues,

data loss, or other failure or service interruption due to Customer's allocation of resources or which result from administration changes made by Customer.

**9.5 Backups and Virtual Machine Deletion.** Customer's purchase of RPC-VMware includes a virtual machine recovery appliance ("VMR"), which is used for backups of the Management Services only. The VMR does not function as a backup for the Cluster or for Virtual Systems or other data on the Customer Configuration. Customer is responsible for creating backups of Virtual Systems and data in the Customer Configuration and for ensuring that the backups function properly. iret does not create backups of the Virtual Systems or data unless Customer has purchased backup services. Customer is responsible ensuring, via the customer portal, that firewall rules that remain after a virtual machine is deleted are removed and are updated before replacing deleted virtual machines.

## 10. DISCLAIMERS & DISCLOSURES.

**10.1** Deduplication and compression ratios are based in part on vSAN storage policies in use, VM disk provisioning types, space reservations, the size of disk groups, data redundancy within each disk group, and the types of pre-compressed data, among other factors. iret does not guarantee that Customer will experience specific deduplication ratios or compression ratios when using deduplication or compression on Customer's vSAN, notwithstanding any representation to the contrary.

**10.2** To better enable iret's ability to proactively analyze and identify issues for support routing, RPCV utilizes a feature that collects and stores Customer log files. The contents of uploaded logs include information about Customer's server IP address and login times, but does not contain personal information or any Customer Data. For more information about the contents of these log files, please contact a iret account manager.

**11. MANAGED BACKUP.** iret shall back up Customer's data only if Customer has purchased data backup services. Unless a custom backup solution is agreed to in advance, backups will be performed to a shared managed backup infrastructure on a scheduled basis and retained as described in the Service Order. Open database files cannot be backed up without the use of a software backup agent. iret shall only back up a database if an appropriate backup agent is used or Customer dumps Customer's database to flat files prior to the scheduled backup. Backups are not a snap-shot of Customer's data, they are made over a period of hours and the quality of the backup depends on how Customer's data is organized. Customer is responsible for regularly validating the integrity of backed up data. iret cannot guarantee that a restore procedure will provide a fully functional operating system or application. If Customer wishes to preserve Customer's backup after the time that a given device is decommissioned Customer shall make arrangements with iret at least 72 hours in advance of the scheduled decommissioning of the device. Database duplications or data migration for purposes other than a restoration of lost or corrupted data is not included as part of Customer's managed backup service, but may be arranged as a supplementary service for an hourly fee. Provided that iret does not impair the security or reliability of Customer's backup service, Customer agrees that iret may from time to time use copies of Customer's backup data to test iret's backup systems.

**12. SERVICES MANAGEMENT AGENT.** Customer agrees that iret may install service management agents on the Customer Configuration for purposes of providing the Services and identifying security vulnerabilities. Except as otherwise necessary for the provision of the Services such agents will use only a minimal amount of computing resources and iret shall not use the agents to view or capture Customer Data. The Services will become Unsupported Services if Customer disables or interferes with any one of iret's service management agents.

**13. VIRTUALIZATION.** If Customer's order includes virtual servers, they will be active on the Service Commencement Date. Following the Service Commencement Date Customer is responsible for managing the active or inactive status of Customer's virtual servers via the customer portal. iret shall invoice Customer for Customer's virtual servers in arrears based on the number of calendar days (full or partial) in each billing period that Customer's virtual servers are set to "active." While Customer's virtual servers are in an "inactive" status, iret shall not install any software updates that iret may have otherwise agreed to install. iret shall update Customer's virtual servers when Customer returns them to "active" status, but there may be a delay of up to 24 hours before the updates initiate.

**14. SUSPENSION OF SERVICES.** iret may suspend the Services without liability if (i) Customer does not cooperate with iret's reasonable investigation of any suspected violation of the Agreement; (ii) there is an attack on the Customer Configuration or the Customer Configuration is accessed or manipulated by a third

party without Customer's consent; (iii) iret is required by law or by a regulatory or government body to suspend Customer's Services; or (iv) there is another event for which iret reasonably believes that the suspension of Services is necessary to protect the iret's or its Representative's network, or its other customers. iret shall give Customer advance notice of a suspension under this paragraph of at least 12 Business Hours unless iret determines in its reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect from imminent and significant operational, legal, or security risk. If the Customer Configuration is compromised, then Customer shall address the vulnerability prior to iret placing the Customer Configuration back in service or, at Customer's request, iret may be able to perform this work for Customer for an hourly fee.

**15. MICROSOFT SOFTWARE.** In addition to the terms of the Agreement, Customer's use of any Microsoft® software provided for Customer's use is governed by: (i) Microsoft's license terms that appear at <http://www.rackspace.com/information/legal/microsoftlicenseclient.php>, for client or redistributable software; (ii) Microsoft's license terms at [www.rackspace.com/information/microsoftlicensemobility.php](http://www.rackspace.com/information/microsoftlicensemobility.php) for use of Microsoft software on the Rackspace Cloud under the license mobility program; and (iii) any use restrictions on Customer's use of the Microsoft software as indicated in Customer's Services Description, such as a limitation on the number of users. If Customer resells any part of the Hosting Services that include Microsoft software, then Customer shall include the Microsoft terms posted at <http://www.rackspace.com/aboutus/legal/microsoftlicense.php> in Customer's agreement with its customers.

**16. LIFECYCLE MANAGEMENT.** Customer's use of the Services shall be subject to Rackspace's Extended Lifecycle Support Terms (presently found at the following URL: <https://www.rackspace.com/information/legal/eolterms>), as those terms may be update by Rackspace.

**17. MISCELLANEOUS.** A non-binding translation of the above hyperlinked terms may be found at the same URL as noted in the footer. For the sake of clarity, the Agreement between Customer and iret is made in the English language only, which will be controlling in all respects. No translation of the Agreement, any Service Order, Product Terms, or other iret provided document into any other language will have any force or effect whatsoever.