



Terms for Maintenance and Support Services

by

IGEL Technology Corp., 594 Howard Street, Suite 200, San Francisco, California, 94105, US,
– hereinafter referred to as “IGEL” –

THESE TERMS FOR MAINTENANCE AND SUPPORT SERVICES (“**SUPPORT TERMS**”) SET FORTH THE TERMS AND CONDITIONS UNDER WHICH IGEL AGREES TO PROVIDE THE MAINTENANCE AND SUPPORT SERVICES PURCHASED BY CUSTOMER (DEFINED BELOW). BY REGISTERING ON IGEL’S SUPPORT PORTAL OR RECEIVING SUPPORT SERVICES PURCHASED, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS.

1 General. These Support Terms state the terms and conditions under which IGEL will perform, and Customer will receive, the maintenance and support services described herein (“**Support Services**”).

2 Definitions.

For the purposes of these Support Terms:

- 2.1 “**IGEL-Software**” means the Software-Products “IGEL Workspace Edition” (including “IGEL OS” and the features of “Universal Management Suite” (“IGEL UMS”) included therein) as well as the expansion package “IGEL Enterprise Management Pack” (“IGEL EMP”), if acquired by the Customer.
- 2.2 “**Third-Party Software**” means software not manufactured by IGEL that is either embedded in IGEL-Software or bundled by IGEL with the IGEL-Software to Customer., Software that is installed or stored on the “Custom Partition” shall not be deemed Third-Party Software and shall be excluded from Support Services. Custom Partition is a feature of IGEL OS that allows the Customer to install software provided by third parties to a mass storage’s partition.
- 2.3 “**Customer**” means a customer that has an active license for IGEL-Software and that has purchased Support Services under an applicable order form.
- 2.4 “**Endpoint Device**” means computers or other hardware devices with an installed, licensed IGEL OS.
- 2.5 “**Business Hours**” means any time between 8:00 a.m. and 8:00 p.m. (EST) on Business Days.

- 2.6 “**Business Days**” means any days from Monday to Friday except the following holidays: New Year’s Day, Martin Luther King Jr. Day, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Black Friday, Christmas Eve and Christmas Day.
- 2.7 “**Error**” means a failure of the IGEL-Software to perform in substantial conformity with the then-current specifications relating to such IGEL-Software as provided in the IGEL Knowledge Base.
- 2.8 “**Critical Error**” means an Error (i) that causes essential functions of the IGEL-Software not to operate and considerably restricts Customer’s business operations (e.g. imminent data loss or loss of connection to a centralized server environment); and (ii) for which there is no known reasonable workaround. IGEL and the Customer shall mutually determine whether a reported Error constitutes a Critical Error pursuant to the preceding criteria in this Section 2.8.
- 2.9 “**Major Version**” means the versions of IGEL-Software marked by the same number before the first decimal point of a version number (e.g. 11.x.x. is Major Version 11).
- 2.10 “**End of Maintenance**” means IGEL-Software or versions thereof for which, according to the information provided via <https://kb.igel.com/EOM>, Support Services are no longer being provided. Support Services are provided for the Major Versions released by IGEL to Customers during the last 3 (three) years.

3 Support-Services-Packages.

3.1 IGEL offers three “Support Services packages”, each with the scope of Support Services as respectively described below. The Support Services package that Customer shall receive shall be specified on the applicable order form.

3.2 “Maintenance (including Select Support)”

- Product Updates & Upgrades according to Section 4.1,
- Web-Based Support according to Section 4.2,
- Named Contacts according to Section 5: Maximum of 5 Customer employees,
- Response Times according to Section 4.5,
- Unlimited number of support calls and online support tickets.

3.3 “Priority Support”

Priority Support includes the same scope of services as provided under Select Support and also includes:

- Phone Support according to Section 4.3,

- Support via Remote Access according to Section 4.4,
- Named Contacts according to Section 5: Maximum of 10 Customer employees,
- Response Times according to sec. 4.5: 1 Business Day.

3.4 “Priority Plus Support”

Priority Plus Support includes the same scope of services as provided under Priority Support, and also includes:

- Support via Remote Access outside of Business Hours according to Section 4.4.
- Named Contacts according to Section 5: Maximum of 15 Customer employees.
- Response Times according to Section 4.5: 4 Business Hours.

3.5 Priority Support and Priority Plus Support shall expire upon the expiration or termination of Maintenance (including Select Support).

4 Support-Services.

4.1 Product Updates & Upgrades:

IGEL may, in its sole discretion, release to Customer from time to time new versions of IGEL-Software (as so called “Major Versions” and “Release Versions”) that it makes generally available to customers who receive Support Services. To the extent that IGEL presents the prospect of new versions of IGEL-Software in the context of “Roadmaps” or comparable advertising material, such prospect shall only be a non-committal announcement and not binding on IGEL. IGEL may also, in its sole discretion, provide Customer with “Stable-Releases” and/or “Private-Builds” for IGEL-Software that has not yet reached End of Maintenance status. “Private-Builds” are updates to the IGEL-Software primarily aimed at fixing of Errors, and “Stable-Releases” may, in addition to that, contain new features or functions. IGEL shall not be obligated to release new versions, patches, hotfixes or other adaptations or modifications of any Third-Party Software. The installation of new versions, Stable-Releases, Private-Builds and Third-Party Software shall solely be the Customer’s responsibility.

4.2 Web-Based Support:

As part of Web-Based Support, Customer shall receive access to an online “Knowledge Base” for IGEL-Software. In addition, Customer can submit “Support-Tickets” online at <https://www.igel.com/submit-a-ticket/>. Except for the Knowledge Base, which may be accessed by any of Customer’s users, Web-Based Support shall only be available to Customer’s Named Contacts in accordance with Section 5 below.



4.3 Phone Support:

Phone Support is provided to Customer during Business Hours via the support telephone number(s) provided and released by IGEL. Phone Support may be used for assistance regarding reported Errors. Phone support shall only be available to Customer’s Named Contacts according to Section. 5.

4.4 Remote Access:

If and to the extent deemed appropriate by IGEL and only with the express approval of Customer, IGEL shall provide support via remote access to the Customer’s Endpoint Devices. Such Remote Access support will be carried out using industry standard encryption. In connection with Remote Access support, Customer will cooperate with IGEL to allow and enable IGEL access and permissions as needed in order for IGEL to conduct such support. Remote Access is only available for Priority Support and Priority Plus Support and will be carried out during Business Hours, except Customers with Priority Plus Support may receive Remote Access support on a 24/7 basis in connection with Critical Errors. Customer will be solely responsible for instituting and maintaining proper security safeguards to protect Customer’s systems and data, and hereby assumes sole responsibility for any lost or altered data, files or information during the performance of Remote Access support.

4.5 Response Times: In connection with Errors reported by Customer, IGEL will use commercially reasonable efforts to adhere to the following response times as applicable to the Support Services package purchased by Customer (but does not guarantee that any reported Error will be resolved) :

<u>Support Services Package</u>	<u>Response Time for Non-Critical Errors</u>	<u>Response Time for Critical Errors</u>
Maintenance (including Select Support)	Within 3 Business Days of IGEL’s receipt of Customer’s request	Within 3 Business Days of IGEL’s receipt of Customer’s request
Priority Support	Within 1 Business Day of IGEL’s receipt of Customer’s request	Within 4 Business Hours of IGEL’s receipt of Customer’s request
Priority Plus Support	Within 4 Business Hours of IGEL’s receipt of Customer’s request	Within 2 hours of IGEL’s receipt of Customer’s request on a 24x7 basis*

* Response Time is applicable only in connection with Errors submitted by Customer by telephone in accordance with Section 4.1.3 and is conditioned on IGEL receiving all information requested by IGEL in connection with the submitted Error.

The above Response Time commitments shall be considered met by IGEL as long as IGEL begins diagnosis of the reported Error within the timeframes included in the table above.

4.6 Language of Support: Support Services are provided in English.

5 Named Contacts.

5.1 Customer shall appoint a certain number of employees (as allocated to Customer based on Customer's purchased Support Services package) who shall act as contact persons and as authorized delegates regarding Support Services for the Customer (herein referred to as "**Named Contacts**").

5.2 Customer shall register user accounts for each Named Contact on IGEL's "Maintenance and Support" webpage (<https://support.igel.com/service-support-login/new-registration.html>), to enable those Named Contacts to make use of the Support Services. The identity of a Named Contact can always be changed by Customer upon notice to IGEL, so long as the maximum number of Named Contacts allotted to Customer is not exceeded. Each Named Contact must be adequately qualified to use and supervise IGEL-Software and to assist and cooperate with IGEL in efforts to diagnose and resolve Errors.

6 Exclusions.

6.1 Support Services shall only be provided for IGEL-Software and Third-Party Software as expressly detailed herein. Notwithstanding the foregoing, Support Services exclude, and IGEL is not obligated to provide, any support, maintenance, troubleshooting or other such services arising from or related to:

6.1.1 IGEL-Software which has been customized, supplemented, altered or modified by Customer or any third party without IGEL's express written consent;

6.1.2 Errors due to outside influences, e.g. power blackouts, actions from outside or force majeure events;

6.1.3 Errors due to the use of IGEL-Software or Third-Party Software other than as specified in the respective software's specifications;

6.1.4 the operation or use of IGEL-Software on Endpoint Devices which do not meet the requirements published by IGEL on its website;

6.1.5 claims of Customers that are subject to the IGEL hardware-warranty;

6.1.6 Errors due to Customer's failure to implement new versions or releases of IGEL-Software made available under Support Services;

6.1.7 IGEL Software that has reached End of Maintenance Status; or

6.1.8 accident, negligence, or misuse of the IGEL-Software or Third Party Software.

6.2 IGEL is not responsible or liable for any delay or failure of performance caused in whole or in part by any delay or failure to perform any of Customer's obligations under these Support Terms.

6.3 Customer must purchase and/or renew Support Services at the same Support Services package level for all licenses for a particular IGEL Software product.

7 Cooperation Duties of Customer.

7.1 Customer shall provide IGEL with all such cooperation, assistance and information as IGEL may reasonably request, or otherwise may reasonably be required, to enable IGEL to perform its obligations (including the provision of Support Services) hereunder, and Customer acknowledges that IGEL's obligations hereunder are subject to Customer's provision of such cooperation, assistance or information.

7.2 As a precondition for requesting Support Services from IGEL, Customer agrees to use reasonable efforts to: (i) attempt to solve the problem or Error and to utilize sufficient resources to clearly understand that a problem or Error exists before consulting IGEL; (ii) utilize sufficient resources to understand the instructions from IGEL in addressing the problem, and make reasonable attempts to correct the problem or Error as suggested by IGEL. In addition, Customer agrees and acknowledges that the extent of access and the accuracy of information and technical data provided may affect IGEL's ability to provide the Support Services

8 Changes to Support Services.

8.1 IGEL may, in its discretion, change from time to time these Terms and the service offerings provided under Support Services with 6 (six) months' notice. IGEL shall provide such notice by publishing any such changes on IGEL's website.

9 Duration of Support Services, Termination, Upgrade.

9.1 Customer shall receive the Support Services for term specified in the applicable order form. The Support Services shall not automatically renew upon expiration of the applicable term.

9.2 Either party may terminate these Support Terms:

- effective on written notice to the other party, if the other party materially breaches these Support Terms and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach; or
- effective immediately if the other party: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property.

9.3 Notice of termination shall be in writing. IGEL may provide notices to termination to Customer by (a) email to the address then associated with Customer's account; or (b) first-class mail (certified or registered, return receipt requested). Notices of termination to IGEL shall be sent by first-class mail (certified or registered, return receipt requested) to IGEL Technology Corp., 540 Howard Street, San Francisco, California 94105, Attention: Accounts Payables. Notices that IGEL provide by email is effective and deemed delivered when sent. Notices given by first-class mail is effective and deemed delivered upon receipt or refusal to accept delivery has been unsuccessful and the notice thereof has been issued to the addressee.

9.4 Support Services are non-cancelable and non-refundable, and Customer may not downgrade its purchased Support Services package during the applicable term.

10 Limited Warranty; Disclaimer.

10.1 IGEL shall use its reasonable efforts to provide the Support Services and warrants that such services shall be performed in a professional and workmanlike manner. Customer's exclusive remedy and IGEL's entire liability for breach of the limited warranty set forth in this Section 10.1 is the re-performance by IGEL of the deficient Support Services. EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN THIS SECTION 10.1, THE IGEL SOFTWARE, SUPPORT SERVICES, ALONG WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION, OR MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM ARE PROVIDED "AS IS." IGEL HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, IGEL MAKES NO WARRANTY OF ANY KIND THAT THE IGEL SOFTWARE, THE SUPPORT SERVICES, OR ANY OTHER GOODS, SERVICES, TECHNOLOGIES, INFORMATION, OR MATERIALS, OR ANY

PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM, WILL MEET CUSTOMER'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. ALL THIRD-PARTY SOFTWARE IS PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING SUCH IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH THIRD-PARTY SOFTWARE. THIS AGREEMENT DOES NOT AMEND, AUGMENT, OR OTHERWISE MODIFY IGEL'S WARRANTIES UNDER THE IGEL END USER LICENSE AGREEMENT OR OTHER AGREEMENT SIGNED BY IGEL AND CUSTOMER.

11 Liability and Damages.

11.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IGEL AND ITS AFFILIATES, LICENSORS, RESELLERS, AND DISTRIBUTORS SHALL NOT BE LIABLE FOR ANY LOSS OF USE, LOSS OF INCOME, LOSS OF OPPORTUNITY OR PROFITS, LOSS OF GOODWILL, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES ARISING FROM THE SUPPORT SERVICES, THE IGEL SOFTWARE AND THIRD-PARTY SOFTWARE, OR OTHERWISE ARISING IN CONNECTION WITH THESE TERMS, HOWSOEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE LIABILITY OF IGEL AND ITS AFFILIATES, LICENSORS, RESELLERS, OR DISTRIBUTORS EXCEED THE AMOUNTS PAID TO IGEL FOR CUSTOMER'S SPECIFIC SUPPORT SERVICES AT ISSUE DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO THE CLAIM.

12 Miscellaneous.

12.1 **Confidentiality.** Each party shall keep confidential, and not disclose to any third party (except each party's respective affiliates, employees and consultants who have a need to know and who agree in writing to keep the information confidential on terms no less restrictive than those contained herein) any Confidential Information which may be provided in connection with these Support Terms. "**Confidential Information**" means any non-public information disclosed by one party to the other party, either directly or indirectly, whether communicated in writing, orally or by inspection of tangible objects (including, without limitation, pricing, trade secrets, product plans, products, Support Services, customers, software including the IGEL Software (both object and source code), documentation, designs, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or financial information), which is designated as "Confidential," "Proprietary" or some similar designation. Information

communicated orally will be considered to be Confidential Information if such information is identified as Confidential Information at the time of its disclosure, or if such information by its nature should reasonably be understood by the receiving Party to be confidential. Confidential Information will include these Support Terms, any and all non-public information relating to any Support Services, IGEL Software and any associated training, documentation, and other related materials, regardless of whether or not such materials are marked as “Confidential,” “Proprietary” or some similar designation. Confidential Information may also include information that is disclosed to a party by one or more third parties. Notwithstanding the foregoing, Confidential Information will not include any information that: (a) was publicly known prior to the time of disclosure by the disclosing party; (b) becomes publicly known after disclosure by the disclosing party to the receiving party through no fault of the receiving party; (c) is already in the possession of the receiving party at the time of disclosure by the disclosing party (as shown by the receiving party's files and records) prior to the time of disclosure; (d) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; or (e) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information (as shown by documents and other competent evidence in the receiving party's possession). In the event Confidential Information is required by law or lawful order to be disclosed by the receiving party, the receiving party will first promptly give the disclosing party written notice of such requirement prior to any disclosure so that the disclosing party may have sufficient time to seek a protective order or other appropriate relief, and disclose only that portion of Confidential Information that the receiving party is legally required to disclose.

- 12.2 **Force Majeure.** IGEL is not liable for any failure or delay in performance due to any cause beyond its control, including without limitation, flood, fire, acts of war, terrorism, earthquake, pandemics and acts of God. IGEL shall not be liable for any failure or delay in performing its obligations on account of Customer's failure to perform its obligations hereunder.
- 12.3 **Governing Law; Jurisdiction.** These Support Terms are governed by the laws of the State of California, without reference to its conflict of laws principles. Any dispute regarding these Support Terms will be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco County, California, U.S.A.
- 12.4 **General Terms.** These Support Terms are non-transferrable. These Support Terms constitute the entire agreement between Customer and IGEL with respect to the Support Services and supersede all prior agreements, negotiations, representations and proposals, written and oral with respect to the subject matter hereof. Additional or conflicting terms on any purchase order or other document issued by Customer or any third party will have



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no force or effect. Except as otherwise stated herein, these terms and conditions may not be amended, waived or modified, except in a writing signed by a duly authorized representative of each party and no course of dealing or usage of trade may be invoked to amend, waive or modify any term of these Support Terms. If any provision of these Support Terms is held invalid or unenforceable, the remainder of the Support Terms will continue in full force and effect. No waiver by either party of any rights under the Support Terms will be effective unless such waiver is in a writing signed by the party against whom enforcement is sought.