



General Terms and Conditions for IGEL Health Check / Review

IGEL Technology Limited

Section 1: Scope and Basis of Contract

- (1) These General Terms and Conditions (**Terms**) apply to any Health Check Reviews carried out by IGEL (the Service). For the avoidance of doubt, the Customer's own terms and conditions shall not apply to the Service and IGEL does not accept them in any circumstances.
- (2) The Customer shall send the registration form to IGEL requesting the Service and IGEL may then accept this order by confirmation in writing (either by post, fax or email) (**Order Confirmation**). The Contract may only be varied by the parties if there is a written document to this effect and signed by an authorised representative of both parties.

Section 2: Charges and payment

- (1) The applicable charges for the Service are as set out in Schedule 1.
- (2) IGEL shall invoice the Customer at the time of providing the Service and the Customer shall pay the invoice in full no later than 30 days after the date of receipt of the invoice, or the negotiated terms in previously agreed contracts.
- (3) Time for payment shall be of the essence of the Contract.
- (4) Without limiting any other right or remedy, if the Customer fails to make any payment due to IGEL under the Contract by the due date for payment (Due Date), IGEL shall have the right to charge interest on the overdue amount from the Due Date until actual payment at the rate permitted under the Late Payments Act 1998.
- (5) The Customer shall pay all amounts due under the Contract in full without any deduction and shall not be entitled to set-off or counterclaim against IGEL in order

to justify withholding payment of any amount.

- (6) Unless expressly stated otherwise, all sums payable under the Contract are exclusive of VAT at the applicable rate for which the Customer shall also be liable.

Section 3: Cancellation of the Service by the Customer

- (1) If Customer cancels the Service before it commences, the following payments shall be due to IGEL:

Time of cancellation:

Payment due to IGEL:

Up to 5 working days beforehand: Free of charge

Less than 5 working days beforehand: 70% of the confirmed training fee

No-show/cancellation on the day: 100% of the confirmed training fee

- (2) Subject to the clause 3(1) above, if having confirmed the Service the Customer does not permit the Service to take place for any reason the full confirmed training fee shall be payable (unless these Terms state otherwise).

Section 4: The Service

- (1) The agreed Service comprises:
- a. a check that the relevant software and/or hardware has been correctly installed by the Customer;
 - b. a check to ensure that all applicable updates have been downloaded onto the Customer's IT system;
 - c. a general review of any other services that might be performed by IGEL for the Customer;
 - d. assisting the Customer with testing to ensure the proper functioning of the software and hardware.
- (2) IGEL shall provide the Training to the Customer using reasonable care and skill.

Section 5: Intellectual Property in the Service materials

- (1) The Service materials (including any documents, aids, electronic presentations files, samples) and all associated Intellectual Property used or provided to the course participants in connection with the Service are the exclusive property of IGEL and must be used solely for the purpose of and in connection with the Service. IGEL shall have the exclusive right to any other use of the materials, including translation, reprinting or reproduction. The materials shall not be reproduced, published, modified or translated unless with IGEL's prior written consent.
- (2) Any Intellectual Property generated in the course of Service shall belong to IGEL immediately upon its creation. Upon generating any such Intellectual Property the

Customer will, promptly and on request, provide details of such Intellectual Property to IGEL and will take any steps required to ensure that such rights are assigned to IGEL.

- (3) For these purposes, 'Intellectual Property' means patents, rights to inventions, copyright and related rights, trade marks and services marks, goodwill, rights in designs, research design, marketing concepts, creative designs, rights in and to software, rights in and to confidential information (including know-how and trade secrets), rights in and to databases and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar property rights of whatever nature subsisting (now or in the future) in any part of the world.

Section 6: Customer's obligations

- (1) In receiving the Service provided by IGEL, the Customer agrees that it shall be responsible for:
- a. ensuring that any relevant personnel and office facilities are available for the scheduled time for the Service and shall be liable to IGEL in the event that the Service is delayed or postponed as a result of not complying with this obligation;
 - b. ensuring that the Service takes place on a non-live thin client test environment;
 - c. taking suitable and adequate measures to back-up and protect its own data, information and any other materials against loss, destruction and damage before the Service commences;
 - d. ensuring that it is able to provide the IGEL personnel carrying out the service with full documentary records of the Customer's system and installation of software updates provided by IGEL, including details of any updates/upgrades which have not been implemented.

Section 7: Liability

- (1) Nothing in these Terms shall limit or exclude IGEL's liability for:
- a. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - b. fraud or fraudulent misrepresentation; or
 - c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- (2) Subject to clause 7(1):
- a. IGEL shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty or misrepresentation, or otherwise, for any:

- i. loss of profits;
- ii. loss of business
- iii. depletion of goodwill or similar losses;
- iv. loss of anticipated savings;
- v. loss of goods;
- vi. loss of contract;
- vii. damage to software or hardware;
- viii. loss or corruption of data or information; or
- ix. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses

in connection with the Contract.

- b. IGEL's total liability to the Customer in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the higher of:
 - i. £5,000 or
 - ii. 125% of the total charges payable by the Customer under this Contract.
 - c. IGEL shall not be liable for any loss or damage caused by a virus, distributed denial-of-service attack, or other technologically harmful material that may infect the Customer's computer equipment, computer programs, data or other proprietary material due to the use of copied data carriers.
- (3) The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- (4) This clause shall survive termination of the Contract.
- (5) Data carriers that course participants have brought with them shall in principle not be loaded on IGEL's computer systems. If IGEL incurs damage as a result of thereof breach of this clause, it reserves the right to claim damages.
- (6) If IGEL's performance of any of its obligations under the Contract are prevented or delayed by any act of omission the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- a. IGEL shall without limiting its other rights or remedies have the right to suspend performance of the Service until the Customer remedies the Customer Default (at which point the Service may be resumed or rearranged at IGEL's discretion);
 - b. IGEL shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from IGEL's failure or delay to perform any of its obligations as set out in this clause; and

- c. The Customer shall reimburse IGEL on written demand for any costs or losses sustained or incurred by IGEL arising directly or indirectly from the Customer Default.

Section 8: Confidentiality and data protection

- (1) The parties undertake to keep confidential all information they receive from the other party in connection with these Terms for an unlimited period of time. This clause shall apply in particular to all information expressly indicated as being confidential or a company secret. Following completion of the Service, IGEL shall return all the company documents given to it by Customer.
- (2) The Customer acknowledges and agrees that details of the Customer's and / or course participants' personal data will be processed by and on behalf of IGEL in connection with the Contract.

Section 9: Termination

- (1) The Contract may be terminated:
 - a. immediately by IGEL if the Customer fails to pay any sum due within 14 (fourteen) days after the receipt of the second written reminder;
 - b. immediately by either party if the other commits a material breach of any of these Terms (other than one falling within clause 9(1) above) and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 (thirty) days of a written request to remedy the same;
 - c. immediately by either party if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).
- (2) Any termination of the Contract pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party not the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

Section 10: General

Force Majeure

- (1) Neither party shall be liable for any breach of its obligations under this Contract resulting from matters reasonably beyond their control including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of IGEL or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or Government

rule, order regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or contractors (**Force Majeure Event**).

- (2) Each party agreed to give notice to the other immediately upon becoming aware of a Force Majeure Event, such notice to contain details of circumstances giving rise to it.
- (3) If a Force Majeure Event prevent IGEL from providing the Service for more than 3 months then either party shall, without limiting its other rights or remedies, have the right to terminate the Contract. Neither party shall have any liability to the other in respect of the termination of these Terms as a result of the Force Majeure Event.

Waiver

- (4) The waiver by either party of a breach or default of any of the provisions of the Contract by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

Notices

- (5) Any notice request instruction or other document to be given hereunder shall be delivered or sent by first class post or by facsimile to the address of the other party set out in the Registration Form or Order Confirmation (or such other address as may have been notified) and any such notice or other document shall be deemed to have been served (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by facsimile upon transmission, provided a transmission report to a then current number of this recipient can be produced.

Assignment

- (6) Neither party shall be entitled to assign the Contract nor all or any of their rights and obligations hereunder without the prior written consent of the other.

Entire Agreement

- (7) These terms, constitutes the entire agreement and understanding of the parties relating to its subject matter (except in the case of fraud) and supersedes all prior written or oral agreements, representations, understandings or arrangements between them relating to the subject matter of the Contract. Neither party shall be entitled to rely on any agreement, representation, understanding or arrangement which is not expressed in the Contract.

Governing Law

- (8) This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be

governed by the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

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SCHEDULE 1

Charges Payable for the Health Check Review Service

[IGEL TO INSERT THE RELEVANT COSTS PAYABLE]