

## Terms for Sale and Delivery

of

IGEL Technology BVBA, Researchpark Haasrode 1820, Interleuvenlaan 62  
3001 Leuven (Heverlee), Belgium, (hereinafter "IGEL")

### I. GENERAL PROVISIONS

#### 1 Scope of Application

- 1.1 These Terms for Sale and Delivery ("**these Terms**") apply to all sales and deliveries of software- and hardware products ("**IGEL-Products**") of IGEL to an undertaking (in the meaning of art.I.1,1° of the Belgian Code of Economic Law), a legal entity under public law or a special fund as defined in Belgian public law ("**Customer**"). The bold-typed emphasizes serve only for better orientation of the reader and have no subject-matter meaning.
- 1.2 These Terms form an essential part of all offers by and conclusions of contracts and contracts with IGEL.
- 1.3 IGEL does not accept any terms and conditions of the Customer, even if IGEL does not explicitly object, unless IGEL has approved the application of these Customer's general terms explicitly and in writing. These Terms also apply exclusively when IGEL starts performance of a particular contract without a specific reservation despite knowledge of the Customers terms and conditions, which are contradictory to or different from these Terms.
- 1.4 These Terms also apply to all future transactions between IGEL and the Customer, even without further explicit reference from IGEL being required, and remain valid until IGEL puts new/revised Terms into effect. The incorporation of new Terms into the contract relationship between IGEL and the Customer takes place by referring that new Terms are in effect and by their provision on the IGEL website <https://www.igel.com/terms-conditions/>.
- 1.5 With the exception of the Managing Director of IGEL, the staff members of IGEL are not entitled to agree on terms which differ from these Terms or waive these Terms.

#### 2 Offers and Conclusion of Contracts

- 2.1 Offers by IGEL are always non-binding (so called "*invitatio ad offerendum*"). An agreement is only concluded if and in so far as IGEL accepts an order of the Customer in

writing or delivers the IGEL-Products. The Customer is bound to an order or offer for one week, unless agreed otherwise in writing.

- 2.2 The delivery content and the further contractual conditions are determined solely by the written order confirmation from IGEL. Additional agreements always require the form as specified in sec. 22.1 (final clauses) of these Terms.
- 2.3 In the event that parties have agreed upon individual provisions for a particular order, those individual provisions will expire with the completion of the particular order and will not have any effect to other orders running at the same time or to subsequent orders.

### **3 Prices**

- 3.1 All prices given by IGEL are net prices, meaning: Without expenses for taxes and duties, loading, insurance (in particular transport insurance), transport costs and turnover tax and other costs.
- 3.2 All prices are quoted in EURO, unless another currency is explicitly appointed in IGEL's order confirmation.

### **4 Terms of Delivery**

- 4.1 All IGEL-Products are delivered by IGEL "CIP" (Incoterms 2010) to the agreed point of delivery, which means by handling them over to the first carrier. Incoterms 2010 shall also apply if IGEL refers to another delivery clause (e.g. "cif", "fob" etc.) in its order confirmation.
- 4.2 IGEL is only obliged to comply with foreign packaging, weight and customs regulations if explicitly agreed between the Parties and if the Customer provides all the necessary information.

### **5 Permission for Export and Import/Embargos**

- 5.1 IGEL-Products are exclusively intended to remain and to be used in the first Country of Delivery as agreed between the Parties. If the Country of Delivery is a member state of EU/EEC, the IGEL-Product is intended to remain and to be used in the area of EU/EEC.
- 5.2 In the event IGEL-Products are delivered to a foreign country, trade and export regulations must be observed by the Customer, in particular the export and foreign trade regulations of the country of origin of IGEL-Products (Germany) as well as the export regulations of the IGEL's country of origin (Belgium).
- 5.3 The re-export of IGEL-Products – individually or in an integrated form – by the Customer, is additionally subject to the trade- and export regulations of the Country of Delivery as referred to in sec. 5.1 of these Terms. The Customer is obliged to inform itself

autonomously about the relevant regulations and to get IGEL's written approval regarding the delivery to the respective country before the IGEL-Products' export to a foreign country. It is the sole responsibility of the Customer to obtain the necessary permits of the competent foreign trade authority before it exports the IGEL-Products. The Customer is responsible to ensure the compliance with the relevant provisions until the IGEL-Products reach the end user.

- 5.4 If IGEL delivers the IGEL-Products directly to a third country upon instructions of the Customer, sec. 5.3 of these Terms applies.
- 5.5 In addition, the Customer must observe and comply with IGEL's instructions on export controlled software, materials and services as provided on IGEL's website <https://www.igel.com/terms-conditions/>.

## II. CONTRACTUAL OBLIGATIONS

### 6 Payment, Default in Payment

- 6.1 IGEL invoices the Customer after delivery. Payment must be made within a period of 30 days starting on the date after the invoice date. Upon exceeding the payment term, the Customer shall be automatically in default.
- 6.2 IGEL is allowed to charge reminder fees for each reminder. In the event of delay in payment on the part of the Customer, IGEL is entitled to demand a one off payment of Euro 40.00 instead of a re-minder fee. IGEL's statutory rights in the event of default of payment by the Customer shall remain unaffected.

### 7 Set-off, Retention, Assignment

- 7.1 The Customer is not entitled to set off a claim or to retain payment unless its counterclaim is acknowledged in writing by IGEL or is confirmed by a competent court decision.
- 7.2 The Customer is not entitled to assign claims from the contract to third parties without the written approval of IGEL.

### 8 Date of Delivery/Default in Delivery

- 8.1 Specified delivery terms shall not be binding, unless IGEL explicitly confirms in writing that the delivery term is binding. In the event of noncompliance with sec. 9 of these Terms by the Customer, the delivery term shall be extended with a reasonable term.
- 8.2 In the event that the Parties have not agreed on a binding delivery term, IGEL shall only be in default of delivery, if the Customer sends a reminder to IGEL indicating a reasonable

period of grace, that period has unsuccessfully expired and the further legal preconditions have been met.

- 8.3 Delivery and performance by IGEL is always subject to correct and timely delivery by IGEL's suppliers. Any delivery delay or delivery failure due to IGEL's suppliers (without IGEL's own negligence) shall not be considered as a default of IGEL.
- 8.4 If IGEL is unable to comply with its obligations towards the Customer within the delivery term due to force majeure, the delivery term will be extended. Force majeure includes at least any circumstance that is independent on the will of IGEL, including but not limited to armed conflicts, official interventions and prohibitions, delays in transport or customs clearance, damages in transit, energy shortage and raw materials scarcity, labor disputes and default on performance by a major component supplier which is difficult to replace, industrial action, official directive, and faults by third parties engaged by IGEL. The extension of the delivery term shall be no longer than six months. After the expiry of the extended delivery term, both Parties are entitled to terminate the contract.
- 8.5 IGEL is entitled to make partial deliveries if that is reasonable to the Customer, in which case IGEL is also entitled to issue invoices for each partial delivery.

## **9 Duties and Obligations of the Customer to Cooperate**

- 9.1 In case the effectiveness or performance of the contract requires specific permissions, licenses (e.g. licenses for import or export) or similar, they must be obtained by the Customer, unless the Parties explicitly agreed otherwise.
- 9.2 In addition to the above, the Customer is obliged to cooperate and work in good faith in order to carry out the provisions of the contract, in particular to obtain the necessary permits and to provide the additional devices and parts for reconstruction.
- 9.3 IGEL is entitled to set a reasonable term for the Customer to cooperate in order to carry out the provisions of the contract (for example, the application for a necessary export permit). After the unsuccessful expiry of that term, IGEL is entitled to terminate the contract. When the necessary licenses or permits are not obtained within three (3) months after the conclusion of the contract, IGEL is entitled to terminate the contract without further notice.
- 9.4 If delivery of the IGEL-Product is delayed because the Customer does not comply with sec. 9 para 1 and 2 of these Terms or if the Customer is in delay of acceptance of delivery, IGEL is entitled to claim reimbursement for additional expenses, e.g. warehousing and storage costs. Warehousing and storage costs will be charged as a lump sum with 0,5% of the invoiced sum per month beginning one (1) week after IGEL's notification of readiness for dispatch of the IGEL-Products. The Customer shall be entitled to provide

evidence that the real costs for warehousing and storage are lower than the demanded lump sum. IGEL is entitled to provide evidence that the real costs for warehousing and storage are higher than the lump sum. All rights of IGEL to withdraw from the contract and to claim compensation for damages are reserved.

## 10 Reservation of Title

- 10.1 Title to the IGEL-Products shall only be transferred to the Customer after it has paid in full all that which the Customer owes or will owe to IGEL under any agreement or otherwise. If there is a current account with the Customer, the entire reserved title on IGEL-Products shall be used to secure the payment of the outstanding claim. To the extent that under the national law of the Customer the validity of the reservation of title is subject to special conditions or formalities (for example registration), the Customer is obliged to comply with those conditions or formal requirements at its own expense.
- 10.2 In the event of a breach of the contract by the Customer, in particular in the event of a delayed payment or a filed petition for insolvency, IGEL is entitled to demand return of the IGEL-Products from the Customer without any period of grace or, if necessary, to demand the assignment of the claim for return of property against third parties. The withdrawal or the seizure of the IGEL-Products by IGEL shall not be regarded as a termination of the contract by IGEL, unless explicitly stated otherwise in writing. The Customer shall bear the costs of the withdrawal. IGEL is entitled to monetize the repossessed IGEL-Products. Any depreciation of the IGEL-Products will be borne by the Customer.
- 10.3 The Customer is entitled to resell the reserved IGEL-Products within the scope of proper business operation, as long as it is not in default, and/or there is no filed petition for insolvency or it is not obliged to file such petition. In case of a resale of the reserved IGEL-Products on credit, the Customer is obliged to secure the rights of IGEL on the reserved IGEL-Products. Pledges, security transfers, resale to the financing of the IGEL-Products (for example to leasing companies) and/or leases to third parties are only allowed with the prior written consent of IGEL.
- 10.4 If the Customer resells the IGEL-Products, it thereby assigns to IGEL its claim for payment against the subsequent buyer together with all the accessory rights in order to secure the claim of IGEL. However, IGEL can request that the Customer notifies its debtors of the assignment. The Customer is authorized to collect the sum from the subsequent buyer until revocation by IGEL. With the revocation of the authorization to collect payments, the Customer has to provide IGEL with the required data needed for the collection of the claim and in the same case the Customer has to support IGEL in claiming the accounts receivable.

- 10.5 The Customer is obliged to carefully store the IGEL-Products owned or co-owned by IGEL at its own expense, to insure them against theft, breakage, fire, water and other damages and to prove the conclusion of the insurance upon IGEL's request.
- 10.6 The Customer is obliged to keep the reserved IGEL-Products in proper conditions and to have any necessary repairs carried out immediately by one of the IGEL's authorized qualified workshops.
- 10.7 The Customer is obliged to inform IGEL immediately about any seizure of the retained IGEL-Products by third parties as soon as the Customer becomes aware of such event. The Customer is also obliged to provide IGEL all the information and documents necessary for an intervention. The Customer is liable for the expenses which arise from the lift of the seizure, in particular for the costs of IGEL's lodgment of intervention on the seizure, as long as those costs cannot be attained by the creditors.
- 10.8 By connecting the reserved IGEL-Products, regardless of whether software or hardware, with other products to a uniform new product, the co-ownership of the new product is due to IGEL. The share in the co-ownership is defined by the ratio of the value of the reserved IGEL-Products to the invoice value of the other products.
- 10.9 If the Customer acquires the sole ownership over the new product, regardless of whether hardware or software, on the basis of legal provisions, parties agree that IGEL acquires the co-ownership of the new product as defined by the ratio of the value of the reserved IGEL-Products to the invoice value of the other products. The Customer shall store the new products free of charge in accordance with Sec. 10 para 5 of these Terms for IGEL.

## **11 Specific Provisions for Software Products / IGEL EULA**

- 11.1 IGEL only grants End-Users a right of use on the Software and exclusively under the terms and conditions of IGELs End User License Agreement (hereinafter "EULA" <https://www.igel.com/terms-conditions/>). EULA includes the terms and conditions for usage of IGEL-Software by End-User. Otherwise the terms of EULA shall complement the provisions of these Terms.
- 11.2 IGELs warranty and other liability for the delivery of defective Software is determined in Part III. of these Terms.
- 11.3 The above stated provisions shall also apply if IGEL delivers an electronic key code to activate and re-lease the functionality of the Software instead of Software.

### III. WARRANTY FOR MATERIAL DEFECTS; WITHDRAWAL AND LIABILITY FOR DAMAGES

#### 12 Warranty for Material Defects

- 12.1 IGEL shall provide warranty for defects initially by repair or replacement at its own discretion.
- 12.2 If the supplementary performance fails, the Customer may, at its own discretion, demand a reduction in payment (reduction) or withdrawal from the contract (withdrawal).
- 12.3 If an inspection of the rejected IGEL-Product shows that there was no defect, IGEL is entitled to charge the Customer for the inspection according to its general hourly rates.
- 12.4 A guarantee is only granted if and as far as stated by IGEL. In particular, statements in catalogues, folders, promotional literature as well as written or oral statements which have not been included in IGEL's order confirmation do not constitute any guarantee obligation.
- 12.5 If alterations on any of the IGEL-Products concerning construction, material, and model are carried out after the conclusion of the contract, these alterations do not represent a defect of the IGEL-Product, as long as no deduction of the usability occurs from that.
- 12.6 IGEL is not liable for the correctness and fulfilment of public statements and commitments of third parties (including the suppliers or resellers of IGEL or the manufacturers). IGEL is in particular not liable for public statements by IGEL or by designated third parties when the statement was already corrected at the moment of the conclusion of the contract or when the Customer could not prove that the respective statement influenced its purchase decision.
- 12.7 Any warranty claim of the Customer for defects and damages is especially excluded if such defects or damages arise
  - 12.7.1 because a certain design, construction or a certain material for the purchased IGEL-Product was chosen upon the request of the Customer,
  - 12.7.2 because inappropriate or excessive air- and/or heat-conditions or, power fluctuations and power cuts or, electromagnetic radiations beyond statutory law were found in the environment of the IGEL-Product.
  - 12.7.3 because the Customer has not considered Technical Specifications and the Safety Instructions of the IGEL-Product,
  - 12.7.4 because the Customer does not use the IGEL-Product competently or has overstrained the IGEL-Product,

- 12.7.5 because the Customer has modified or extended the IGEL-Product with parts or components from third parties without the prior written confirmation of the compatibility of the parts or components with the IGEL-Product by IGEL,
- 12.7.6 because the Customer has disassembled or modified the IGEL-Product without the prior written approval of IGEL.

### **13 Notice of a Lack of Conformity**

- 13.1 Claims for defects are also excluded if the Customer does not give notice of a defect of the IGEL-Product in accordance with the following provisions:
  - 13.1.1 Apparent defects: Any lack of conformity, which at the inspection of the IGEL-Product is recognizable, has to be noticed to IGEL within at latest in five working days after the delivery of the IGEL-Product and before further manufacturing/ processing/ usage.
  - 13.1.2 Hidden defects: Any hidden lack of conformity, which at the inspection of the IGEL-Product could not be discovered, has to be noticed in writing to IGEL within five working days after the defect is discovered.
  - 13.1.3 For the adherence to the term for notice, it is sufficient to dispatch the notification of the lack of conformity in due time. The Customer must describe the defects to the best of his ability.
- 13.2 A notice of a lack of conformity does not release the Customer from any acceptance and/or payment obligation, unless the defect of the IGEL-Product is confirmed in writing by IGEL or has already been legally confirmed.

### **14 Remedy of Defects**

- 14.1 IGEL is entitled to replace a defective part of an IGEL-Product with a new replacement part or an as new replacement part.
- 14.2 Replaced parts or exchanged IGEL-Products become property of IGEL and shall be returned by the Customer.
- 14.3 IGEL is obliged to carry all expenditures for the purpose of the remedy of defects, in particular transport-, labor and material costs. IGEL is also obliged to bear the costs for a removal and installation of the IGEL-Product as far as IGEL has given its prior consent to the installation or combination of the IGEL-Product with another object or, as far as the installation or combination of the IGEL-Product with another object is customary for the kind and type of the IGEL-Product.



## 15 Withdrawal

- 15.1 The Customer's right to withdraw from the contract is subject to the legal provisions of the Belgian Civil Code, providing that the right of withdrawal due to a breach of the contract not existing in a defect of the IGEL-Product, shall only apply if IGEL is responsible for such breach.
- 15.2 In the event of partial deliveries the Customer may only withdraw from the whole contract if it has no reasonable interest in the other part of the delivery and if IGELs breach of the duty was essential for the whole contract.
- 15.3 In case of a withdrawal from the contract by the Customer, IGEL is entitled to claim compensation for the benefits obtained by the Customer in the amount of 3% per month of the sales price as a lump sum, unless the Customer proves a lower value of the benefits. IGEL's right to prove a higher value of the benefits remains unaffected.

## 16 Duty of IGEL to Compensate the Damages

- 16.1 IGEL shall only be liable for damages caused by intent or gross negligence and only if the statutory requirements for a corresponding claim are met.
- 16.2 IGEL shall additionally be liable for damages arising out of at least simple negligent breach of a material contractual duty or the breach of a duty, which, if discharged, would endanger the proper performance under this Agreement and on the fulfillment of which the Customer can regularly rely.
- 16.3 Apart from the aforesaid, IGEL shall not be liable for any damages without limitation to the legal basis including, but not limited to pre-contractual liability.
- 16.4 If and as far as IGEL is liable for negligent behavior according to sec. 16.2 of these Terms, the liability is limited to typical damages that have been foreseeable at the time an agreement has been concluded.
- 16.5 The limitations to IGEL's liability according to sec. 16.1 to 16.4 of these Terms shall not apply if and as far as IGEL has taken over a guarantee, for claims caused by fraud, damages due to harm done to a person's life, body or health, or to claims arising out of or based on provisions of the Belgian Product Liability Act ("*wet betreffende de aansprakelijkheid van producten met gebreken*").
- 16.6 If and as far as the above stated provisions limit and/or exclude IGEL's liability, these limitations and/or exclusions shall apply mutatis mutandis to IGEL's employees, freelance-collaborators and/or other associated persons.
- 16.7 The Distributor shall allow an inspection and examination of all damages for which he intends to hold IGEL liable for.

## 17 Limitation Period

17.1 The warranty period shall be one year.

17.2 This shall not apply if and as far as IGEL has taken over a guarantee (), for claims caused by fraud, damages due to harm done to a person's life, body or health, or to claims arising out of or based on provisions of the German Product Liability Act ( "*wet betreffende de aansprakelijkheid van produkten met gebreken*").

## 18 Duty of the Customer to Compensate the Damages

If IGEL is entitled to claim compensation of damages from the Customer because the Customer delays acceptance or if it infringes other duties of cooperation IGEL shall be entitled to demand compensation in lieu of payment in the amount of 15 % of the order value, in as far as the Customer cannot prove that the damages are less. IGEL reserves the right to prove that the damages are greater than 15 % of the order value.

## 19 Industrial and Intellectual Property Rights of Third Parties

19.1 The Parties shall inform each other immediately in textform if a third party alleges an infringement of third party rights caused by an IGEL-Product or such an allegation is possible or such a law-suit is pending.

19.2 IGEL shall in its sole discretion defend or settle claims, lawsuits and other actions of a third party based on an infringement of Belgian industrial or intellectual property rights (e.g. patents, trade-marks, copyrights and others).

19.3 IGEL indemnifies to Customer all costs, damages and fees that the Customer bears for an infringement of a third party rights as per sec. 19.2 under the provision that the claim of the third party was confirmed regarding their merits and their amounts by a competent Belgian court or if the Customer has acknowledged or settled those third party claims, IGEL has given its prior written consent to Customers acknowledgement or settlement.

19.4 It is the understanding of the Parties that it is IGELs primary obligation to defend third party claims. The Customer shall grant to IGEL the power to defend against those third party claims out of court. The Customer shall also agree with IGEL the responsible legal advisor and the proceeding in the event of a court dispute. IGEL shall not settle any claims or take any legal action detrimental to the Customer without Customers prior consent.

19.5 If a third party alleges the infringement of its rights, IGEL is entitled at its sole discretion:

19.5.1 to acquire at its expense a license for Customer from such third party in order to continue using the IGEL-Product;

- 19.5.2 to change or to replace the IGEL-Product to the extent that it does not infringe such third party rights; or
- 19.5.3 if 19.5.1 and 19.5.2 is not reasonable to accept the return of the IGEL-Product concurrently against re-payment of the sale price (license fee) on a straight line basis of its depreciation value for three years.
- 19.6 Any liability of IGEL towards the Customer with respect to infringement of third party rights is excluded for third party claims and alleged claims if the claim is founded on:
- 19.6.1 the combination, the process or the use of an IGEL-Product together with other products, services, data or other material, that was not delivered by IGEL and if those third party claim would not have arisen without those other products, services, data or material;
- 19.6.2 changes and amendments of the IGEL-Product made by the Customer or its customer or upon request of Customer or its customer;
- 19.6.3 the use IGEL-Product after the Customer or its customer was duly informed by IGEL that they have to refrain from further use of the IGEL-Product with respect to an infringement of third party rights and if IGEL has provided already a new version of the IGEL-Product that does not infringe third party rights;
- 19.6.4 the use of the IGEL-Product contrary to technical specifications and safety instructions of the IGEL-Product or beyond statutory law.
- 19.7 The Customer indemnifies to IGEL all costs and expenses, that IGEL and its subsidiaries or their employees, managers and managing director may bear on grounds of an allegation of a third party infringement claim if Customer or its customer were using the IGEL-Product according to sec. 19.6.1 to 19.6.4 of these Terms or contrary to IGEL's EULA.

#### IV. FINAL CLAUSES

##### 20 Applicable Law

These Terms are exclusively governed by Belgian law. The applicability of the Contracts for the International Sale of Goods (CISG) is explicitly excluded.

## 21 Jurisdiction

Any dispute that may arise in connection with the contract with IGEL or with these Terms must be submitted to the competent court of Leuven (Belgium). IGEL also has the right to bring legal action against the Customer at other judicial authorities having jurisdiction to hear such legal actions.

## 22 Written Form/Deviating Agreements

22.1 Alterations, supplements and collateral agreements must be in writing, including the transmission by facsimile or by email as far as these are provided with a signature. The same applies in particular for annulment or alteration of this clause.

22.2 These Terms constitute an essential basis for the contractual relationship between the Parties. There are no deviating, verbal agreements between the Parties at the time when these terms are concluded.

## 23 Severability Clause

If one or more provisions of these Terms have to be or become ineffective or if these Terms include a gap in provisions, the validity of the remaining provisions shall be unaffected.

Leuven, September 2019

IGEL Technology BVBA