

IGEL App Creator Portal Terms of Use

Welcome to the IGEL App Creator Portal (“**Portal**”)! The Portal is an online platform to create software applications (“**Apps**”) that are designed to interoperate with IGEL Software.

The use of the Portal is governed by these IGEL App Creator Portal Terms of Use (“**Terms of Use**”), which form a legally binding agreement between you, regardless of whether you are a person or an entity, (“**End User**” or “**you**”) and IGEL Technology GmbH, (“**IGEL**” or “**we**”).

By clicking “ACCEPT” and/or accessing or using the Portal, you indicate your assent to be bound by these Terms of Use. You also indicate your assent by creating an App in the Portal. If you are accepting these Terms of Use on behalf of an entity, you represent and warrant that you are an authorized representative of the entity with the authority to bind such entity to the Terms of Use. If you do not agree to these Terms of Use, do not use or access the Portal or create any Apps.

1. End User

The End User is fully responsible for compliance with these Terms of Use by anyone using the Portal on its behalf. Any person using the Portal on behalf of an End User is binding that End User to these Terms of Use. These Terms of Use also apply to you if you are using the Portal.

2. Creating Apps

2.1. The Portal is designed to create Apps for the deployment and use in the End User’s own IGEL OS and IGEL UMS instance only. Apps created in the Portal may not be distributed to or otherwise shared with any third party. The End User will be provided with a certificate through the Portal to sign the Apps created by him/her. End User may not share this certificate with third parties.

2.2. In compliance with the Terms of Use, the End User can create Apps by uploading (a) a configuration file that includes self-executing commands for the installation of a software application on IGEL OS (“**Recipe**”) and (b) a software application that the End User intends to develop into an App interoperable with IGEL OS (“**Binary**”), together the “**Components**”.

2.3. Recipes as well as Binaries may be subject to terms (e.g., terms of use or license terms) from their respective developers (or licensors). End User may only use the Components in compliance with the terms of the owners (or licensor) of the Components, including any usage restrictions contained therein.

2.4. It is the sole responsibility of the End User (a) to ensure that the Components are obtained from a secure and trustworthy source and (b) to use only Components that are technically adequate and for which the End User has all necessary rights to use.

2.5. IGEL is in no way responsible for the Components used and/or the Apps created through the Portal. The use of the Portal is entirely at the End User’s own responsibility and risk.

2.6. IGEL does not provide and is not responsible for support and maintenance of Apps created in the Portal.

3. Your Responsibilities

By uploading the Components to the Portal and clicking “Create” you (including anyone acting on your behalf) represent, warrant and covenant that

(a) you are solely responsible for the Components used and the Apps created by you through the Portal;

(b) you have obtained all necessary rights to the Components and the Apps and will pay any licensors or co-owners any royalties or other monies due to them related to such rights;

(c) the uploaded Components will not contain any defamatory material, or violate or infringe any intellectual property, proprietary, or other rights of any person or entity (including contractual rights, copyrights, trademarks, patents, trade dress, trade secret, common law rights, rights of publicity, or privacy, or moral rights);

(d) you will include any attributions, copyright information and other notices, terms and conditions that may be required to be provided based on your use of third party “open source” software or other third-party intellectual property in any App;

(e) the Components will not contain any viruses, spyware, trojan horses, or other malware or harmful code, and will not cause injury to any person or damage to any property.

4. Export Control & Sanction Laws

You acknowledge that you create Apps through the Portal in strict compliance with all applicable export controls and economic sanctions laws and regulations including, but not limited to, regulations of the European Union, the United States, the Federal Republic of Germany, the United Kingdom and other applicable countries and agencies.

5. Indemnity

You will indemnify, defend and hold harmless IGEL and its subsidiaries (including its respective affiliates, officers, directors, employees, contractors and assigns) from and against any loss, claim, liability, damage, action or cause of action (including reasonable attorneys’ fees) arising out of any third party claim relating to (i) any App or Components, (ii) your breach or alleged breach of these Terms of Use, or (iii) any Security Incidents caused by your Components (individually, a “**Claim,**” and collectively, the “**Claims**”). In any defense or settlement negotiations, you will keep IGEL apprised of all relevant developments, including the choice of counsel. IGEL may participate in the defense or settlement of any Claim at its own expense. You will provide IGEL with reasonable notice of any judgment entered against IGEL or any settlement terms offered to settle a Claim and you will not consent to the entry of a judgment or settle a Claim without IGEL’s prior written consent, which we may not unreasonably withhold. If you do not promptly assume and reasonably conduct the defense of a Claim or take reasonable action to settle any such

Claim after being provided with sufficient reasonable advance notice to evaluate the Claim, then IGEL may take control of the defense (without limiting your indemnification obligations). Your obligations under this Section 5 are independent of your other obligations under the Addendum.

6. Disclaimer and Limitation of Liability

6.1. If you are based in North America or South America, the following applies to you:

6.1.1. To the maximum extent permitted by law, IGEL offers the Portal “AS IS” and “AS AVAILABLE”, and IGEL hereby disclaims all warranties, whether express, implied or statutory, including but not limited to any implied warranties of title, non-infringement, merchantability or fitness for a particular purpose, relating to the Portal or these Terms of Use. You may have other statutory rights, in which case the duration of any statutory warranties will be limited to the maximum extent permitted by law.

6.1.2. To the maximum extent permitted by law, in no event will IGEL be liable for any direct, indirect, consequential, special, exemplary, punitive or other liability related to the Portal or any Apps, including for any loss of use, lost or inaccurate data, failure of security mechanisms, interruption of business or costs of delay. If the foregoing disclaimer of direct damages is not enforceable at law for any reason, in no event will IGEL’s aggregate liability to you under these Terms of Use exceed fifty dollars (USD \$50).

6.2. If you are based outside of North America and South America, the following applies to you:

6.2.1. IGEL is subject to unlimited liability for any damages caused by grossly negligent (grob fahrlässig) or willful (vorsätzlich) misconduct of IGEL, or its legal representatives or agents, as well as for damages resulting from any wrongful harm to life, body or health, and damages under the German Product Liability Act (Produkthaftungsgesetz).

6.2.2. Except from 6.2.1, IGEL is only liable for any damages caused by ordinary negligence if, and solely to the extent, IGEL breaches any material obligation (wesentliche Vertragspflicht) under the agreement. Material obligations are obligations which are essential for the achievement of the purpose of the agreement and on which the End User may reasonably rely. In such cases, IGEL’s liability shall be limited to damages reasonably foreseeable (vertragstypischer vorhersehbarer Schaden) at the time the agreement was signed. The liability for loss of profit and subsequent damages (particularly for damages resulting from interruptions to operations) shall be excluded.

6.2.3. Any liability of IGEL for lost data shall be limited to compensatory damages in the amount necessary for restoration of the data using electronic backup media. The aforementioned liability shall not apply if the End User fails to comply with its obligation to regularly back up data in accordance with the state of the art. 13.4.

6.2.4. The liability under 6.2.2 and 6.2.3 is limited to fifty (50) EUR.

6.2.5. The foregoing limitations of liability shall also inure to the benefit of IGEL's legal representatives, agents and employees, and shall also apply in cases involving liability for culpa in contrahendo or tort.

6.2.6. Unless provided otherwise in these Terms of Use, any and all claims of End User against IGEL shall be limited to one year from the date on which the claim occurred and the End User became aware of the circumstances giving rise to the claim or would have become aware of them but for the gross negligence of the End User, except for claims defined in subsections 6.2.1 and 6.2.2.

7. Access Restriction & Discontinuation

7.1. IGEL may take actions as needed to restrict access to or availability of features of the Portal if the End User does not comply with these Terms of Use.

7.2. IGEL may determine in its sole discretion to disable the Portal temporarily or permanently.

8. Dispute Resolution & Governing Law

8.1. In the event of any controversy or claim arising out of or relating to these Terms of Use, the parties will consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of sixty (60) days, either party may pursue relief as may be available under these Terms of Use pursuant to Section 8.2. All negotiations pursuant to this Section 8.1 will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions.

8.2. The following governing law and jurisdiction applies based on your location:

(a) If you are based in North America or South America, these Terms of Use are governed by the laws of the State of California, without giving effect to any choice of law provisions or rules that would cause the application of the laws of a different jurisdiction, and the parties submit to the non-exclusive jurisdiction of the federal and state courts located in San Francisco County, California.

(b) If you are based outside North America and South America, these Terms or Use are governed by the laws of Germany and the parties submit to the non-exclusive jurisdiction of the courts located in Bremen, Germany.

The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to these Terms of Use.

8.3. Notwithstanding the provisions of Sections 8.1 and 8.2, nothing in these Terms of Use will prevent IGEL from seeking injunctive relief with respect to a violation of intellectual

property rights, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.

9. General

9.1. IGEL may modify these Terms of Use at its sole discretion by posting the revised terms on the Portal. You may be required to click to agree to the modified Terms of Use in order to continue using the Portal, and in any event your continued use of the Portal after the effective date of the modifications constitutes your acceptance of the modified terms. For clarity, the version of these Terms of Use in place at the time of your creation of any Apps will apply for purposes of that App. Except as provided in this Section 9.1, all changes or amendments to these Terms of Use require the written agreement of you and IGEL.

9.2. For communications concerning these Terms of Use please write to legal@igel.com. IGEL may send you notices through your IGEL Cloud Services account or to your email address that is on file with IGEL.

9.3. These Terms of Use constitute the entire agreement between the parties with respect to their subject matter and supersedes any and all prior or contemporaneous agreements between the parties with respect to their subject matter.

9.4. If any provision of these Terms of Use is held invalid by a court with jurisdiction over the parties to these Terms of Use, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of these Terms of Use will remain in full force and effect. IGEL's failure to enforce any provision of these Terms of Use will not constitute a waiver of IGEL's rights to subsequently enforce the provision. In these Terms of Use, headings are for convenience only and terms such as "including" are to be construed without limitation.

9.5. You may not assign or transfer these Terms of Use. IGEL may freely assign, transfer and delegate its rights and obligations under these Terms of Use.

9.6. Nothing in these Terms of Use or any Order is intended to, or shall be deemed to, make IGEL your agent, or authorize IGEL to make or enter into any commitments for you or on your behalf.

(August 2024)