

GETINGE'S STANDARD TERMS AND CONDITIONS FOR MAINTENANCE AND SUPPORT FOR DHS PRODUCTS

These Standard Terms and Conditions for Maintenance and Support for DHS Products (“Service Terms”), together with the terms set forth in an applicable Master Agreement – Getinge Software Solutions (“Master Agreement”), shall apply to and govern the terms and conditions under which services are provided by Getinge USA Sales, LLC (“Getinge”), whether under a service plan selected by Customer and identified in the applicable quotation or purchase order (“Service Plan”), or on an ad hoc basis for consultative services as otherwise requested by the Customer pursuant to these Service Terms, for the software and hardware products purchased pursuant an applicable Master Agreement identified on the applicable quotation (“DHS Product” or “DHS Products”).

1. **Definitions:** For purposes of these Service Terms, the following definitions shall apply:
 - a) “Documentation” shall have the meaning ascribed thereto in the License Terms and Conditions applicable to the DHS Products.
 - b) “Clinical Consulting Services” (also referred to herein as “Consulting Services”) shall mean services provided by Getinge to Customer on an ad hoc basis when Customer requests it pursuant to a quotation (for a support case) or pursuant to a statement of work (for projects) signed by both Customer and Getinge. Clinical Consulting Services generally includes all services requested after the installation and acceptance of DHS Products is complete and services not covered in a Service Plan, as well as services relating to database support and maintenance, employee training, workflow analysis and support for generating reports, among others. A Statement of Work may be required by Getinge, if, in its discretion Getinge determines that the services, deliverables, timelines or obligations warrant such documentation.
 - c) “Master Agreement” means the Master Agreement – Getinge Software Solutions referenced in the quotation applicable to the DHS Products.
 - d) “Response Time” is a period-of-time within the applicable Support Hours measured from Acceptance by Getinge to commencement by Getinge of work on the applicable Service Request. Response Time does not include any time required or necessary to develop the solution or workaround for the applicable Service Request.
 - e) “Services” shall mean those services described as being offered as part of a Service Plan, which are necessary and appropriate to keep the licensed DHS Products operational and current as requested by the Customer from time to time, as well as Consulting Services, which the Customer may request from time to time.
 - f) “Services Request” is a request by the Customer that describes the type of Services needed, such as a request for new functionality, training, or correction of a malfunction in the DHS Products, submitted via an electronic portal offered by Getinge or telephone, to the telephone number identified by Getinge in the Service Plan description. Such Service Request shall include clear and reasonable specifications of the Services. If the services requested are not covered under a Service Plan, an authorized Getinge representative will contact Customer and provide a written cost estimate for fulfillment of the requested service. For purposes of measuring Response Time and resolution of a Service Request, a Service Request shall be deemed “accepted” by Getinge when Getinge assigns a number to the Service Request.

- g) “Getinge Software” shall have the meaning ascribed thereto in the Getinge License Terms and Conditions applicable to the DHS Products.
- h) “Term” as applied to the Service Plan purchased hereunder, shall be the period-of-time indicated on the applicable quotation.
- i) “User” shall mean the trained and authorized personnel at the Customer site who utilize the DHS Product(s).

Any capitalized terms not defined herein shall have the meaning set forth in the License Terms for DHS Software Products.

2. **Services.**

- a) Customer’s level of Service will vary depending on the Service Plan purchased by Customer. Below is a general description of basic services, subject to the terms of the particular Service Plan purchased by the Customer. The Services purchased under a Service Plan shall be provided commencing on the date the Customer signs a Getinge clinical acceptance form indicating acceptance and go-live of the DHS Products for the duration of the Term of the Service Plan.
- b) **Operation Support Services:**
 - i) Once Getinge is otherwise notified by the Customer of a System problem, Getinge shall commence troubleshooting within the period of time specified in the applicable Service Plan. As soon as reasonably possible after notification, but in compliance with the provided service priority codes process, Getinge shall determine whether the source of the performance problem is limited to the Customer and in such event, shall assist Customer to correct the performance problem via the Getinge DHS Support Desk. If Getinge determines that the Customer is not the source of the performance problem, Getinge shall determine the source of the performance problem as soon as reasonably practical. Upon determination of the source of the performance problem, Getinge shall notify Customer within the period-of-time specified in the applicable Service Plan and Getinge shall remedy the performance problem according to the severity as defined in this SLA. Getinge requires remote access to Customer’s systems or solicit additional information from the Customer, as required, to trouble-shoot and resolve the issue. If the issue cannot be resolved in this manner, Getinge may escalate to a service center located outside the United States. If the source of the remedy to the performance problem resides outside of the reasonable control of Getinge, Getinge shall use commercially reasonable efforts to notify the parties responsible for the source of the performance problem and cooperate with such parties to resolve such performance problem as soon as possible.
- c) **Support Services (Priority Codes Process):** *see next page*

Severity Level	Description	Response Times*	ResolutionTimes*
1. Critical	Cease operating or data not available.	Response within 30 minutes of Service Request Acceptance with hourly updates.	Resolved within 4 hours of Getinge accepting the Service Request.
2. Major	Negative impact to critical functions, but does not meet Severity 1 criteria.	Response within 60 minutes.	Resolved within 24 hours of Getinge accepting the Service Request. If workaround solutions do not work, Getinge will perform emergency maintenance to resolve within 48 hours.
3. Average	Failure to perform, inhibits effective use, but doesn't meet criteria for Severity 1 or 2.	Response within 60 minutes.	Resolved within 72 hours of Getinge accepting the Service Request. If Getinge sends equipment, equipment must be on-site within 10 days (or less) of Customer's request for equipment.
4. Minor	No performance degradation, data fully accessible, but requires non-critical maintenance or reasonable request for modification.	Response within 1 business day.	Resolved within 10 business days.

*All timeframes set forth shall be subject to, and adjusted to reflect, the service desk hours available for the Service Plan purchased by the Customer.

3. Consumables.

- a) Services do not include the acquisition, replacement or installation of consumables, which include, but are not limited to, batteries, labels, printer ribbon and toner.

4. **Replacement Parts.**

- a) Getinge shall adjust and replace non-consumable parts as Getinge deems necessary to keep the System properly performing. Getinge shall furnish maintenance and replacement parts on an exchange basis. Spare components will be provided to the Customer to allow immediate replacement of non-operational components by Customer staff trained by Getinge.
- b) Getinge reserves the right to engage certified technicians to serve as sub-contractors of Getinge to provide these services, pursuant to subcontractor agreements with all necessary vendors to ensure optimal maintenance and service of the DHS Products.
- c) Getinge shall assist the Customer to identify hardware malfunction of the DHS Products that reside in ORs, sterile processing departments, server rooms, and/or data centers.

5. **Clinical Consulting Services.**

From time to time, Customer may elect to purchase Clinical Consulting Services from Getinge by contacting its account manager directly using the contact information provided by Getinge for this purpose or through a service request portal offered by Getinge. Clinical Consulting Services are provided on a time and materials (“T&M”) basis; that is: (i) the Customer must pay Getinge for all the time spent performing such services, plus materials, taxes, and reimbursable expenses; and (ii) the rates for such services must be Getinge’s then-current standard rate when such services are provided, the current rate as of the Effective Date being the Hourly Rate, with a one (1) hour minimum per Consulting Service Request (“Consulting Services Fees”). in Getinge’s sole discretion, Customer and Getinge shall execute a statement of work on a form to be provided by Getinge documenting the services to be provided and the agreed upon fees for such Consulting Services.

6. **Customer Obligations.**

- a) The Customer acknowledges that (i) certain Services to be provided by Getinge may be dependent on the Customer providing certain data, information, remote access, or assistance, and if the parties agree that certain Services are to be performed at the Customer’s facility, such Services may be dependent on the Client providing access to the Client’s facilities, its Information Technology personnel, and suitable work space, (ii) Customer shall provide routine maintenance on all customer-owned infrastructure components, including application of Getinge Software patches and/or other in-release bug fixes and enhancements to infrastructure operational system; and (iii) replacement of defective, failed or degraded hardware and/or network components within the Customer’s information technology systems or DHS Products. (collectively, “Cooperation”); and that such Cooperation may be essential to the performance of Services by Getinge. The Customer must provide Getinge with all reasonable additional cooperation requested by Getinge. The parties must agree that any delay or failure by Getinge to provide Services hereunder which is caused by the Customer’s failure to provide timely Cooperation reasonably requested by Getinge may not be deemed to be a breach of Getinge performance obligations under these Service Terms. Any Customer requests, comments or feedback regarding Getinge’s performance of Services must be submitted by Customer through the ServiceNow service request tool (or other tool specified by Getinge for service requests). Customer acknowledges that verbal complaints and communications sent directly to Getinge personnel may not be transmitted to Getinge personnel responsible for

overseeing Services delivery and therefore will not be regarded as part of the formal record of correspondence relating to Services.

- b) In the event of emergency maintenance due to a sudden outage of the Customer's information technology infrastructure, Customer shall provide resources necessary to identify, remedy, and completely resolve the issue.
- c) Customer shall assist Getinge in conducting cause-analysis in case of unacceptable Service responsiveness and work collaboratively with Getinge to resolve such issues, as well as document the analysis and resolution in the appropriate ServiceNow case(s).

7. **Payment and Taxes.**

Payment of Fees. In consideration for Services, the Customer will pay Service fees annually in advance of the year for which Service will be provided, as described in the applicable quotation. Customer's failure to pay a Service fee in full when due shall result in immediate suspension of Services. With respect to any Consulting Services provided under these Service Terms, Customer shall pay the Hourly Rate in effect at the time the Consulting Services are provided as further agreed in an applicable statement of work, within thirty (30) days of receiving an invoice therefore. Getinge shall be entitled to charge Customer for actual and reasonable out-of-pocket expenses and fees incurred in connection with rendering Services or Clinical Consulting Services, so long as Customer is notified of and approves the costs in advance.

- a) **Taxes.** Fees paid hereunder do not include taxes or duties. If Getinge is required to pay or collect any governmental, local, value added, tax or duty on any fees charged under these Service Terms, or any other similar taxes or duties levied by any governmental authority, excluding taxes levied on Getinge's net income, then such taxes and/or duties must be billed to and paid by the Customer within thirty (30) days' of receipt of the Getinge invoice and supporting documentation for the taxes or duties charged. However, if Customer furnishes Getinge with an exemption certificate covering such taxes, it is not obligated to pay such taxes.

8. **Confidentiality.**

Each party agrees to keep confidential any non-public information of the other party received in any form, including without limitation, these Service Terms and any service or repair documentation provided in connection with the performance of a Service Plan. Each party will treat confidential information with the same degree of care as it keeps its own confidential information, but in no event less than reasonable care. Each party may share the confidential information with its employees, representatives, and advisors, subject to the same restrictions set forth herein. If the disclosure of the other party's confidential information is required by law, then the party required to make such disclosure shall provide sufficient notice to the other party to allow such party time to take legal or other action to prevent or obtain confidential treatment of such disclosure.

9. **HIPAA & Protected Health Information.**

Customer and Getinge acknowledge and agree that in the course of providing Services, Getinge may process patient protected health information as defined by the Health Insurance Portability and Accountability Act and the Health Information Technology for Economic and Clinical Health Act adopted as part of the American Recovery and Reinvestment Act of 2009, and any regulations and official guidelines promulgated thereunder (collectively, "HIPAA"). Getinge agrees to protect the confidentiality of all patient protected health information and comply with all applicable state and federal privacy laws, rules and regulations, including, without limitation HIPAA, as well as any Business Associate Agreement executed by and between the parties.

10. Indemnification.

- a) **General Indemnity.** Each party shall, at its expense, indemnify, hold harmless and, at the other party's request, defend, the other party and its directors, officers, employees and agents, from and against all losses, costs, liabilities or expenses (including reasonable attorney's fees and legal costs) arising out of any third-party claims related to the indemnifying party's performance under this Agreement to the extent caused by any grossly negligent act or omission or willful misconduct of the indemnifying party, or its employees or agents, that contributes to (i) any personal injury, sickness, disease, or death; (ii) any damage to, or destruction of, property of the indemnified party; or (iii) the indemnifying party's violation of any statute, ordinance, or regulation. Notwithstanding anything herein to the contrary, neither party shall be liable any negligence or willful misconduct of the other party, its employees or agents, or any third party not acting under the indemnifying party's control.
- b) **Indemnity Procedure.** The indemnifying party shall defend, at its expense, any such third-party claims provided that: (i) the indemnified party gives the indemnifying party prompt notice in writing of the third-party claims and permits the indemnifying party, through counsel of its choice, to answer and defend such claims; and (ii) provides all needed information, assistance, and authority, at the indemnifying party's expense, to enable them to defend such claims. The indemnifying party shall not be responsible for payment of any amounts under any settlement made without its prior written consent. In settling any claims hereunder, neither party shall be entitled to admit any liability on behalf of the other party.

11. Warranties; Limitation of Liability

- a) Getinge warrants that Services will be performed in a professional and workmanlike manner and consistent with generally accepted industry standards; provided however that the Customer's sole and exclusive recourse for breach of this warranty must be to report the non-conformity to this warranty within thirty (30) days of the performance of services, in which case Getinge, at Getinge's option, will either (i) re-perform the non-conforming or defective services at its cost and expense, or (ii) provide substitute services. Nothing in these Service Terms may be construed or implied to add to or extend any warranty related to hardware, Getinge Software or any other equipment, software or services provided pursuant to these Service Terms.
- b) EXCEPT AS EXPRESSLY PROVIDED IN THESE SERVICE TERMS, GETINGE DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED BY ITS PERSONNEL OR THE RESULTS OBTAINED FROM THEIR WORK, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IN NO EVENT SHALL GETINGE, ITS PRINCIPALS, MEMBERS OR EMPLOYEES BE LIABLE TO CUSTOMER FOR ANY LOST PROFITS, LOSS OF GOOD WILL OR LOST OPPORTUNITY, OR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, COSTS, EXPENSES OR LOSSES.
- c) Notwithstanding anything herein to the contrary, Getinge shall not be liable for (i) any use, modifications, service or maintenance of Getinge Software or associated equipment or devices by personnel of Customer or third parties who have not been trained by Getinge or Getinge-approved personnel, or (ii) any use, modifications, service or maintenance of Getinge Software or associated equipment or devices not expressly authorized by Getinge.

- d) GETINGE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY FAILURE OR DELAY CAUSED BY EVENTS BEYOND GETINGE'S CONTROL, INCLUDING, WITHOUT LIMITATION, SABOTAGE; FAILURE OR DELAYS IN TRANSPORTATION OR TELECOMMUNICATIONS; FAILURES OR SUBSTITUTIONS OF EQUIPMENT; LABOR DISPUTES; PANDEMICS OR EPIDEMICS, ACCIDENTS; SHORTAGES OF LABOR, FUEL, RAW MATERIALS OR EQUIPMENT.
- e) TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL LIABILITY OF GETINGE FOR ALL CLAIMS ARISING UNDER THESE SERVICE TERMS IS LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED ONE YEAR OF SERVICE PLAN FEES.

12. Responsibility for Getinge Personnel.

All personnel provided by Getinge to perform any Services must be considered Getinge's employees or agents, and Getinge is responsible for payment of fees or salaries (including the withholding or payment of all payroll or income taxes), worker's compensation, disability benefits and the like for such personnel.

13. Independent Contractor Relationship.

The relationship of the parties is that of independent contractors. Neither party shall be considered a partner, agent, or employee of the other. Neither party has any express or implied right to assume or create any obligation on behalf of, or in the name of, the other party or to bind the other party to any contract, agreement or undertaking with any third party, and no conduct of a party shall be deemed to imply such right.

14. Access to Records.

If and to the extent required by Section 1395x(v)(1)(I) of Title 42 of the United States Code, until the expiration of four (4) years after the termination of this Agreement, Getinge shall make available, upon written request by the Secretary of the Department of Health and Human Services, or upon request by the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of the services provided by Getinge under this Agreement. Getinge further agrees that in the event it carries out any of its duties under this Agreement through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, such subcontract shall include a provision requiring such subcontractor to comply with Section 1395x(v)(1)(I) of Title 42 of the United States Code.

15. Client Representatives.

The Customer has designated in writing two employees as its principal contacts for communicating with Getinge regarding technical issues hereunder ("Contact Persons"). The Customer can change its technical contacts by written notice to Getinge. All Contact Person(s), including any replacements, must be available to attend training delivered by Getinge. All communications with Getinge and the Customer must be conducted through such Contact Person(s). Getinge may in its reasonable discretion reduce or increase the number of Contact Persons required under these Service Terms.

16. Term.

The Term of a Service Plan shall commence as of the date the Customer accepts in writing the DHS Product or DHS Products on Getinge's clinical acceptance form and shall continue for the stated Term in the applicable quotation ("Initial Term"), unless earlier terminated by Customer or Getinge as provided in these Service Terms. These Service Terms shall be in effect with respect to Consulting Services commencing as of the Effective Date of the applicable Master Agreement and continuing in effect for so long as such services are requested by Customer from Getinge. Each Service Plan, when expiring, shall automatically renew on the same terms and conditions for successive one (1) year terms (each a "Renewal Term"), unless Customer provides Getinge written notice of Customer's intent not to renew at least ninety (90) days prior to the expiration of the Initial Term or Renewal Term, as applicable).

17. Automatic Termination.

Any Getinge Service Plan, all Service Requests and any obligations to provide Services and Consulting Services may be terminated by a party immediately with notice upon the institution of insolvency, bankruptcy, or similar proceedings by or against a party, any assignment or attempted assignment by a party for the benefit of creditors, any appointment, or application for such appointment, of a receiver for a party, or the exclusion of either party from any governmental program, including but not limited to the Medicare and Medicaid Programs.

18. Termination for Cause.

A Service Plan may be terminated by either party for cause following a material breach by the other party upon sixty (60) days advanced written notice to the other party, provided however that the breaching party has not remedied the breach within such sixty (60) day period. Getinge reserves the right to suspend Service Plan Services and/or Consulting Services for non-payment of any undisputed amount upon thirty (30) days advanced written notice to Customer, provided however that Customer has not made the payment within such thirty (30) day period. Upon termination by Customer under this Section 6.4, Getinge shall refund to Customer any pre-paid but unused Service Plan Fees within thirty (30) days.

19. Termination without Cause.

Customer may terminate this Service Plan at any time without cause and without penalty by giving Getinge at least ninety (90) days prior written notice. In case of such a termination, there will be no refund of Service Plan Fees previously paid. Further, Customers that committed to a multi-year Service Plan in exchange for discounted pricing shall pay to Getinge all the fees associated with the future years of the Service Plan.

20. Return of Materials and Payment

Upon the termination of a Service Plan for any reason, the Customer must pay Getinge the fees for all work in progress as of the termination date, and upon receipt of such payment, Getinge will surrender to the Customer all work in progress, if any, and Confidential Information pertaining to the business of the Customer previously delivered by the Customer to Getinge.

21. MISCELLANEOUS.

- a) Entire Agreement. These Service Terms constitute the entire understanding of the parties hereto with respect to the subject matter hereof, and supersedes any prior understandings or agreements, oral or written, and no amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date hereof and duly approved and executed by each of the parties hereto.
- b) These Service Terms are binding upon and inure to the benefit of the respective successors and permitted assigns of the parties but is not be binding upon or confer any rights upon any other parties.
- c) The failure of either party to enforce at any time any of the provisions hereof shall not be a waiver of such provision, or any other provision, or of the right of such party thereafter to enforce any provision hereof,
- d) Should any provision of these Service Terms be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions must not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of these Service Terms.
- e) Nothing in these Service Terms must be deemed to constitute a partnership, agency, employer-employee or joint venture relationship between the parties hereto.
- f) Governing Law. These Service Terms shall be governed by the laws of the state identified in the Master Agreement, without regard to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- g) No Waiver. The failure of either party to enforce any rights granted under these Service Terms or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to the subsequent enforcement of rights or subsequent action in the event of future breaches.