

SUPPORT TERMS AND CONDITIONS

1. SUPPORT. Customer is not entitled to support unless Customer has ordered and paid for Support as provided in the Order. Support Agreements are non-cancellable. GreenBytes will use reasonable efforts to provide support services as described in these Support Terms and Conditions ("Support") at the level Customer has purchased (e.g., Gold or Platinum) for the term Customer has purchased, which commences upon Product shipment. GreenBytes may suspend performance of Support if GreenBytes does not receive payment when due. GreenBytes' Support contact information is at [www.getgreenbytes.com](http://www.getgreenbytes.com). Support is contacted through GreenBytes' web support (generally accessible on a 24x7x365 basis excepting periodic maintenance or network unavailability) and through telephone and email support. GreenBytes' Support obligation is limited to using reasonable efforts to remedy a reported failure of the Products to substantially operate in accordance with GreenBytes' official specifications (a "problem"). Support does not include Hardware or Software installation, training, consulting services or preventative maintenance.
  - A. SOFTWARE SUBSCRIPTION. Support includes a subscription to all new releases of the Software Customer licensed that are issued by GreenBytes during Customer's term of Support which incorporate updates ("Releases"), but does not include enhancements licensed by GreenBytes for a separate fee at GreenBytes' discretion. Software which is provided as an update or replacement may only be installed as an update to the original Software on that Hardware. Updates to Software or replacement Software will be subject to the terms and conditions set forth in the Purchase Terms and Conditions of which these Support Terms and Conditions are a part, and the GreenBytes' License Agreement. GreenBytes makes no commitment to deliver any future Release(s) and/or that the Hardware Customer has purchased will meet the hardware requirements for and operate with each Release available after the date of Customer's purchase of the Hardware.
  - B. SOFTWARE SUPPORT. GreenBytes classifies Software problems as either: Priority 1—Customer's production use is stopped or so severely impacted that Customer cannot reasonably continue use of the Products; Priority 2—important Product features are unavailable with no acceptable workaround, but Customer's production use is continuing; Priority 3—important Product features are unavailable but a workaround is available, or less significant Product features are unavailable with no reasonable workaround, but Customer's production use is continuing; Priority 4—all other problems. GreenBytes will use reasonable efforts to acknowledge Customer's problem report and commence Support efforts within the following target initial response times of GreenBytes having received and classified Customer's report: Priority 1: 30 minutes; Priority 2: 4 hours; Priority 3: 8 hours; Priority 4: 24 hours. For Priority 1 and Priority 2 problems, Support is offered 24x7x365. For Priority 3 and Priority 4 problems, Support is offered 9am-6pm in Customer's location on business days. For Software problems GreenBytes will provide on-site technical support in GreenBytes' discretion, and if so provided in GreenBytes' discretion, GreenBytes will be responsible for travel and related expenses incurred in providing the on-site Support. If GreenBytes determines that Customer's problem was not caused by GreenBytes Products and if the on-site Support was requested by Customer, then GreenBytes may charge Customer GreenBytes' then-current daily time and materials rate plus reasonable travel and lodging expenses for the on-site Support.
  - C. HARDWARE SUPPORT. If GreenBytes determines that replacement parts are required for Support, then GreenBytes will use reasonable efforts to deliver them to Customer, at no charge, by GreenBytes' target delivery time ("TDT") from after when GreenBytes has diagnosed the problem. For critical parts, GreenBytes' TDT is 4 hours for Platinum Service, and next business day for Gold Service, if the problem is diagnosed before 3pm in Customer's location. For non-critical parts, GreenBytes TDT is within a reasonable time. GreenBytes actual delivery times may vary if Customer's location is remote and/or if common carriers encounter delays or require special transportation arrangements in reaching Customer's site, or if customs clearances impose delays. Platinum Service is not available in all locations. Replacement parts may be new or refurbished. Defective parts must be returned under GreenBytes RMA policy at [www.greenbytes.com](http://www.greenbytes.com) or GreenBytes may invoice Customer for the replacement part. Unless Customer requests otherwise, GreenBytes or a GreenBytes subcontractor will typically provide on-site installation of the replacement part with Customer's reasonable assistance.
2. EXCLUSIONS. GreenBytes will have no Support obligations for any conditions attributable to: (i) negligence or misuse or abuse of the Products; (ii) use of the Products other than in accordance with GreenBytes' official specifications; (iii) modifications, alterations or repairs to the Products made by a party other than GreenBytes or a party authorized by GreenBytes; (iv) any failure by Customer or a third party to comply with environmental and storage requirements for the Products specified by GreenBytes, including, without limitation, temperature or humidity ranges; or (v) use of the Product with any non-GreenBytes apparatus, data or programs outside the typical, recommended or reasonably anticipated use of the Products within their specifications.
3. CONDITIONS TO GREENBYTES' SUPPORT OBLIGATIONS. Customer needs to do the following as a condition to GreenBytes' provision of Support: (i) pay all applicable fees; (ii) designate from time to time a reasonable number of authorized persons trained by GreenBytes who can contact GreenBytes for Support, and these are Customer's only personnel entitled to contact GreenBytes for



Support; (iii) register all Products with GreenBytes, and provide notice to GreenBytes of all sites and site moves; (iv) provide GreenBytes access to Customer's site and/or network and personnel as GreenBytes reasonably requests to assist GreenBytes in performing the Support; (v) use the Products in a supported configuration and maintain the Software within the then-current prior two Releases; (vi) install recommended replacement parts in the Products as reasonably directed by GreenBytes; (vii) refrain from arbitrarily changing Product settings or configurations reasonably recommended by GreenBytes; (viii) ensure that proper licenses have been obtained for all Software and adhere to all licensing terms and conditions; and (ix) make available to GreenBytes any of Customer's systems data, information and other materials reasonably required by GreenBytes for the Support ("Customer Materials"), the accuracy of which is Customer's responsibility. Subject to Customer's rights in the Customer Materials, GreenBytes will exclusively own all rights, title and interest in and to any software programs or tools, utilities, technology, processes, inventions, devices, methodologies, specifications, documentation, techniques and materials of any kind used or developed by GreenBytes or GreenBytes' personnel in connection with performing Support ("GreenBytes Materials"), including all worldwide patent rights (including patent applications and disclosures), copyright rights, moral rights, trade secret rights, know-how and any other intellectual property rights therein. Customer will have no rights in the GreenBytes Materials except as expressly agreed to in writing by GreenBytes and Customer. Nothing in these Purchase Terms and Conditions will be deemed to restrict or limit GreenBytes' right to perform similar services for any other party or to assign any employees or subcontractors to perform similar services for any other party. Customer agrees that it may be necessary for GreenBytes to collect, process and use Customer's data in order to perform GreenBytes obligations to provide Support. Customer consents to these activities and to the transfer of the data to GreenBytes affiliated companies and service providers located throughout the world who are subject to confidentiality agreements with GreenBytes. GreenBytes will not be responsible for Customer's or any third party's software, firmware, information, or memory data contained in, stored on, or integrated with any Products returned to GreenBytes for repair.

4. **CONFIDENTIAL INFORMATION.** Each of the parties ("Receiving Party") understands that the other ("Disclosing Party") has disclosed or may disclose information relating to the Disclosing Party's business (including, without limitation, computer programs, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, financial, customer and product development plans), which to the extent previously, presently or subsequently disclosed to the Receiving Party is "Proprietary Information" of the Disclosing Party. Customer agrees that without limitation GreenBytes' Product and Services prices, discounts and proposals to Customer are GreenBytes' Proprietary Information. The Receiving Party agrees: (a) to hold the Disclosing Party's Proprietary Information in confidence and to take reasonable precautions to protect such Proprietary Information (including, without limitation, all precautions the Receiving Party employs with respect to its own confidential materials); (b) not to divulge any such Proprietary Information to any third person, except to those of its employees and subcontractors that need to know such Proprietary Information for the purpose of performing this Agreement, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that are at least as protective as those set forth herein; (c) not to make any use whatsoever at any time of such Proprietary Information except to perform its obligations under this Agreement; and (d) not to copy or reverse engineer any such Proprietary Information. Without granting any right or license, the Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document: (i) is or becomes (through no improper action or inaction by the Receiving Party) readily available to the public; (ii) was in its possession or known by it without restriction prior to receipt from the Disclosing Party; (iii) was rightfully disclosed to it by a third party without restriction; or (iv) was independently developed without use of any Proprietary Information of the Disclosing Party. The Receiving Party may make disclosures required by law or court order provided the Receiving Party uses reasonable efforts to limit disclosure and to obtain confidential treatment or a protective order and allows the Disclosing Party to participate in the proceeding. To the extent that any of Customer's Proprietary Information includes personally identifiable information, then Customer consents to GreenBytes' use of such personally identifiable information in accordance with GreenBytes' then-current privacy policy.
5. **REINSTATEMENT OF SUPPORT.** If Customer has not continuously purchased and complied with the terms and conditions of Support, Customer may request that GreenBytes perform an inspection of the Products and any professional services GreenBytes reasonably determines are required for the Products to be certified as substantially operating within their official Product specifications. After GreenBytes' certification, Customer may re-instate Support if GreenBytes then offers it in general commercial availability and upon payment to GreenBytes of: (i) for any Products that have been off Support for more than ninety (90) days, twenty percent (20%) of the annual rate of Support for recertification services; (ii) the pro rata Support fees that would have been payable at GreenBytes' then applicable annual rate of Support for the period the Products were not covered by Support; and (iii) the Support fees for the annual period commencing upon the re-instatement of Support.
6. **NON-TRANSFERABILITY.** If Customer sells or otherwise transfers any Hardware to any third party, Customer will either de-install and remove the Software from such Hardware prior to sale or transfer, or provide GreenBytes with reasonable notice and an opportunity to remove or disable such Software prior to any sale or transfer of the Hardware. Subject to availability of resources, GreenBytes will



provide de-installation services to Customer at GreenBytes' then current time and materials rates provided Customer has complied with these Purchase Terms and Conditions and entered into a separate agreement with GreenBytes to receive such de-installation services. Subject to availability of resources, GreenBytes will provide re-installation and re-certification services to a third party purchaser or transferee of GreenBytes Hardware, in each case at GreenBytes' then current time and materials rates provided the purchaser or transferee has: (i) met GreenBytes credit requirements; (ii) obtained a Software license from GreenBytes; (iii) entered into a separate agreement with GreenBytes to receive re-installation and re-certification services; (iv) obtained re-certification of the Products as installed; and (v) paid any Support reinstatement fees and purchased at least a one (1) year term of annual Support from GreenBytes commencing upon the date of Product transfer. Customer's remaining outstanding term of Support is not transferable. Notwithstanding the foregoing, GreenBytes reserves the right to refuse to grant a Software license or provide Services to a proposed purchaser or transferee as determined in GreenBytes' discretion.

7. RELATIONSHIP OF THE PARTIES. GreenBytes is performing Support as an independent contractor, and not as an employee, agent, joint venturer or partner of Customer, and neither of the parties has the authority to bind the other by contract or otherwise. GreenBytes acknowledges and agrees that GreenBytes personnel are not eligible for or entitled to receive any compensation, benefits or other incidents of employment that Customer makes available to its employees. GreenBytes is solely responsible for all taxes, expenses, withholdings, and other similar statutory obligations arising out of the relationship between GreenBytes and GreenBytes personnel and the performance of Support by GreenBytes personnel.
8. ENGLISH. All Support will be provided in the English language unless agreed otherwise. The parties confirm that they have requested that the Purchase Terms and Conditions of which these Support Terms and Conditions are a part and all related documents be drafted in English at the express wishes of the parties.
9. CAPITALIZED TERMS. Capitalized terms not defined herein shall have the meaning set forth in the Purchase Terms and Conditions of which these Support Terms and Conditions are a part, which may be found at [www.getgreengbytes.com/schedules/](http://www.getgreengbytes.com/schedules/).