

**SUPPORT SERVICES FOR DGX-1 APPLIANCE**  
**TERMS AND CONDITIONS**  
**Release Date: April 7, 2017**

**WHAT SUPPORT SERVICES ARE INCLUDED**

NVIDIA Corporation or a designated subsidiary of NVIDIA Corporation with distribution rights in the geographical location (as applicable, "NVIDIA") agrees to provide the below described support services ("Support Services") for the NVIDIA DGX-1 appliance (the "Product") to the end user customer ("you") upon purchase from NVIDIA or a NVIDIA authorized reseller ("Reseller"). Support Services are non-transferable, non-assignable and your services are terminated when the Product is transferred to another party.

**SUPPORT SERVICES**

**A. ASSOCIATED WITH A PRODUCT PURCHASE**

- ✓ In the event of defects in material and workmanship of the Product hardware under normal use and service, shipment of replacement Product or part within next business day of Return Material Authorization (RMA) approval and prior to the return to NVIDIA of the replaced Product or part (see note 1) (the "RMA Services"). RMA approval will be for a full Product or a part at NVIDIA's discretion,
- ✓ At NVIDIA's discretion, as part of your RMA Services NVIDIA may offer to send Support Services technicians on-site, for diagnostics, support, and as-needed hardware repair and/or replacement assistance, subject to the availability of technicians and availability of this Support Service in your geographic location (see note 2). Travel and labor are included,
- ✓ 24x7 online support portal with access to tracking tool for bug reporting and issue resolution, knowledge base materials and troubleshooting information ("24x7 Online Support"),
- ✓ 24x7 call center telephone assistance for Support Service requests (English only) ("24x7 Call Center Support"),
- ✓ 8 AM - 5 PM PST telephone technical assistance where technicians assist with Support Service troubleshooting (English only) ("8-5 Telephone Technical Assistance"),
- ✓ Access to Supported Software Service Subscription (includes Technical Support, Maintenance, Updates and Upgrades) for Supported Software that is factory installed in the Product (see note 2),
- ✓ Access to the NVIDIA cloud-based Software and content, including management, monitoring, and scheduling functionality for use with the Product (see note 2),
- ✓ Access to NVIDIA Containerized Software made available by NVIDIA to Product registry users for use with the Product and in some cases services for NVIDIA Containerized Software (see notes 2 and 3).

You must purchase the above Support Services at the time of your purchase of the Product, provided that you may choose to purchase a one-year plan or a three-year plan. The Support Services will start from the date of Product shipment from NVIDIA, or will start on the date of expiration of the immediately prior service period in the case of renewals.

**B. ASSOCIATED WITH A PRODUCT SPARE PART PURCHASE**

Notwithstanding any other provision of these terms and conditions, you will be entitled to receive the Hardware-related Support Services described in this paragraph for each NVIDIA Product spare part for: (i) 90 days if the spare part shipment by NVIDIA takes place during the last 90 days of your Support Services period under section (A) above, provided that these terms and conditions will continually apply for the duration of the spare part Support Services; or (ii) the remainder of your Support Services period under section (A) above, if the Product spare part shipment by NVIDIA takes place before the last 90 days of your Support Services period under section (A) above. "Hardware-related Support Services" for Product spare parts consist of: RMA Services and, to the extent concerning hardware inquiries, 24x7 Online Support, 24x7 Call Center Support and 8-5 Telephone Technical Assistance.

## **GENERAL SUPPORT SERVICE TERMS**

The above Support Services are either delivered directly by NVIDIA pursuant to these terms and conditions, or in certain jurisdictions certain Support Services are available from and delivered by a NVIDIA authorized service provider. If you have an agreement with NVIDIA or a Reseller specifying that a third party will deliver to you one or more of the Support Services described above, then the corresponding terms described in these terms and conditions do not apply and you receive such services pursuant to the terms of your agreement with the NVIDIA authorized service provider. NVIDIA and its authorized service providers will have access to your information (including in the online support portal) and will exchange information in order to fulfill and optimize the delivery of Product services.

Note 1: You are deemed to have purchased a replacement Product or part after ten (10) days from its delivery, unless you (i) tender to the carrier in the NVIDIA provided package the replaced Product or part within ten (10) days of replacement delivery, or (ii) you receive from NVIDIA a written extension of the ten (10) days period or a waiver of the obligation to return the replaced Product or part. For each additional purchase, an invoice will be issued to you from NVIDIA or a Reseller for payment of the replacement Product or part delivered based on the price stated in the NVIDIA then current price list at the time of replacement delivery. With the shipment of a replacement Product or part under these Support Services, you will receive the return label, package and instructions to return the replaced Product or part.

Note 2: The Support Services identified above as subject to this note are only available in limited geographical locations, as updated by NVIDIA from time to time in its sole discretion. The unavailability of this Support Service in your location does not make you eligible for any discounts, credits or refunds to the price paid for the Support Services plan.

Note 3: NVIDIA will define from time to time, in its sole discretion, and indicate to subscribers when a license or service fee is required for a NVIDIA Containerized Software made available in the cloud solution for the Product. If no separate service fee is indicated as required for a NVIDIA Containerized Software, then the NVIDIA-developed portions of such NVIDIA Containerized Software is supported as part of your Support Services under these terms and conditions.

As part of these Support Services NVIDIA may deliver to you diagnostics software which is licensed in accordance with and subject to the terms of the end user license agreement (“EULA”). Supported Software Service Subscriptions are subject to the terms of the EULA. The Cloud Subscription services and content are subject to the terms of the EULA and the DGX-1 cloud supplement to the EULA. Capitalized terms used but not defined herein shall have the meaning assigned to them in the EULA or the DGX-1 cloud supplement to the EULA.

## **REGISTRATION**

You are responsible for registering the Product and Software, as applicable, to be supported in order to receive these Support Services, using the registration instructions within each package, email, or as otherwise directed by NVIDIA. NVIDIA IS NOT OBLIGATED TO PROVIDE THESE SUPPORT SERVICES IF YOU DO NOT COMPLETE REGISTRATION AS STATED HEREIN.

## **WHAT THESE SUPPORT SERVICES DO NOT COVER**

These Support Services apply only to unmodified Products used in accordance with NVIDIA’s intended use as specifically set forth in NVIDIA’s published documentation. NVIDIA does not warrant uninterrupted or error-free operation of the Product, operating systems, or other integrated software. Further, these Support Services do not cover:

- (a) Products that are free from defects in materials or workmanship under normal use and service;
- (b) software, operating systems, applications, services or data installed in the Products, all the foregoing with respect to those portions of the Licensed Software supplied but not developed by NVIDIA; provided, however, that NVIDIA will make efforts to provide you input with respect to known bugs in the third party components with no commitment to fixes or resolution;
- (c) modifications by you or any third party, modifications made by NVIDIA under a consulting service agreement, and NVIDIA-developed Software you obtained outside of the Product or the cloud solution for the Product, all the foregoing with respect to those portions of the Licensed Software supplied and developed by NVIDIA;
- (d) configuration of all communication software, unless required for troubleshooting;
- (e) all non-NVIDIA supplied software, hardware and peripherals, and their installation, configuration, validation or compatibility with the Product;

- (f) firmware updates for non-NVIDIA systems, unless required for issue resolution;
- (g) invalid software and hardware configurations;
- (h) your applications and data, or backing up and restoring them;
- (i) repair of system after virus infection other than installation of the operating system to the default NVIDIA factory settings;
- (j) cosmetic damage or normal wear and tear;
- (k) expendable or consumable parts;
- (l) sample Products, free of charge Products, or pre-release Product versions;
- (m) commercial upgrades;
- (n) interoperability or compatibility issues that may arise when (i) products, software, or options not supported by NVIDIA are used; (ii) configurations not supported, provided or approved by NVIDIA are used; or (iii) parts intended for one system are installed in another system of different make or model; or (iv) other hardware or non-NVIDIA supplied software is introduced after the time of purchase; or
- (o) defects or damage to the Products arising from or related to: (i) any modifications, alterations, tampering, repair, or servicing by any party other than NVIDIA or its authorized representatives (see note 4); (ii) handling, transit, storage, installation, testing, maintenance, or use not in accordance with the Product documentation; (iii) abuse, negligence, neglect, accidents, or misuse; (iv) third party hardware, software or malware (e.g., virus, worm); or software loss or data loss that may occur during repair or replacement; (v) fire or spillage of food or liquid, external electrical fault, or any acts of God (such as, but not limited to, lightning), or any other external factor; and
- (p) unnecessary work in NVIDIA's assessment.

Note 4: The Product contains parts that can be easily removed and replaced by you without tampering with or removing the hardware case, and your normal operation of such parts in and out will not void these Support Services. However, these Support Services are void if you tamper with or remove the original hardware case in performing self-service.

NVIDIA shall be excused from performing any of its obligations hereunder to the extent any such non-performance is attributable to your failure to perform your obligations under these terms and conditions.

UNLESS DIRECTLY CAUSED BY NVIDIA'S OWN NEGLIGENCE, NVIDIA IS NOT RESPONSIBLE FOR ANY PRODUCT DAMAGE OR SUPPORT SERVICE ISSUES (INCLUDING, BUT NOT LIMITED TO, THE VOIDING OF A THIRD PARTY PRODUCT SUPPORT) THAT MAY OCCUR BY USING, INTEGRATING OR SUBSTITUTING THE NVIDIA PRODUCT WITH OR INTO A THIRD PARTY PRODUCT.

#### **WHAT YOU SHOULD DO IF THERE IS A SUPPORT SERVICE ISSUE**

If you experience a Support Service issue please contact the NVIDIA Enterprise Support Team; details on how to log issues and request Support Services via the dedicated support portal will be sent by email after registering your Product. You are responsible for keeping your email account updated to receive communications from NVIDIA. You may only return non-conforming Product upon written approval of NVIDIA and after you have received a written RMA from NVIDIA. All returned Products must be identified with an RMA number validly issued by NVIDIA. If, during the Support Services period: (i) you are eligible for a Product replacement or repair under these Support Services, and (ii) you notify NVIDIA in writing of the nature of the repair and return the Product to NVIDIA in accordance with these terms and conditions, NVIDIA shall at its own expense and as its sole obligation and as your sole and exclusive remedy under these Support Services, use commercially reasonable efforts to: (i) repair or replace the non-conforming Product, or (ii) if after a reasonable opportunity to cure NVIDIA determines in its reasonable discretion that it cannot repair or replace the non-conforming Product, then NVIDIA shall refund or issue a credit equal to the price paid by you or the Reseller to NVIDIA (net of rebates and/or other credits issued to you or the Reseller) for the applicable Product. Any such repair or replacement will not extend the original Support Services period. NVIDIA may, at its sole discretion, use new or refurbished parts or units in connection with Product repairs under these Support Services.

For Product technical support during your Support Services period, you will be permitted to designate in writing to NVIDIA up to four designated users, which list of designated users may be updated by you at any time by written notice to NVIDIA (which may include notice by email or other electronic transmission). NVIDIA will provide technical Support Services to such designated users via a dedicated Support Services portal that allows the designated user(s) to make Support Service

requests for the Product through the dedicated Support Services portal. You acknowledge that NVIDIA may discuss Product specifications, design, manufacture, assembly and/or testing with its suppliers.

You agree to provide through designated users such information, and/or access to resources as NVIDIA may reasonably require in order to deliver Support Services, including, without limitation, access via the internet or via direct modem or VPN connection to relevant servers, access to your facilities and the Product for requested on-site visits, and/or access to, and assistance of, your personnel who possess information required by NVIDIA for purposes of performing its obligations hereunder. As examples, as reasonably requested by NVIDIA you shall (i) identify the correct Product version(s) to which a potential Support Service issue relates, (ii) provide the documentation and assistance necessary to demonstrate and diagnose each potential Support Service issue, including providing necessary test cases that NVIDIA can reproduce, (iii) provide remote system access for NVIDIA to replicate potential errors, and (iv) provide embedded diagnostic information associated with the Product.

### **INTELLECTUAL PROPERTY RIGHTS**

No transfer of ownership of any intellectual property will occur under these terms and conditions. You grant NVIDIA a non-exclusive, worldwide, royalty-free right and license to any intellectual property that is necessary for NVIDIA and its designees to perform the Support Services.

### **YOUR SOFTWARE AND DATA**

You are responsible for the security, backup and reinstallation of your software and data at all times. You understand that it will be your responsibility to remove, as you deem appropriate, software and data prior to receiving Support Services for a Product or prior to returning a Product to NVIDIA on a temporary or permanent basis. In addition, software installed or in use may be unable to run or function in the same manner after the delivery of Support Services or Products and data may no longer be present. YOU ACKNOWLEDGE THAT AFTER RECEIVING SUPPORT SERVICES OR PRODUCTS, THE PRODUCT MAY NOT BE CAPABLE OF BEING RESTORED TO ITS ORIGINAL CONDITION AND THAT SOFTWARE MAY BE AFFECTED. FURTHER, YOU UNDERSTAND THAT DATA FROM SUCH SOFTWARE THAT YOU CREATE OR CHANGE WHILE RECEIVING SUPPORT SERVICES OR PRODUCTS MAY BE INCAPABLE OF BEING RESTORED OR RECOVERED. NVIDIA SHALL NOT BE RESPONSIBLE FOR ANY COSTS, EXPENSES OR OTHER LIABILITIES YOU MAY INCUR AS A RESULT OF YOUR ELECTIONS TO LEAVE OR REMOVE SOFTWARE AND DATA FROM THE PRODUCT.

### **PERSONAL INFORMATION**

In order to access Support Services, you need to register and create an account with NVIDIA and become a registered user. When creating an account, you will be required to provide certain personal information about you or your personnel and establish a username and a password. NVIDIA reserves the right to suspend or terminate an account if any information provided is inaccurate, false or misleading. You or your personnel are responsible for safeguarding the password that you use for the account and for any activities or actions under such account, whether or not authorized by you. NVIDIA will not be liable for any loss or damage arising from your failure to comply with the above requirements.

In connection with your receipt of the Support Services you may receive access to links to third party websites and services and the availability of those links does not imply any endorsement by NVIDIA. We encourage you to review the privacy statements on those sites and services that you choose to visit so that you can understand how they may collect, use and share your personal information. NVIDIA is not responsible for the privacy statements or practices of sites and services controlled by other companies or organizations or your reliance on information you gather from use of the links.

To the extent that you or your personnel provide to NVIDIA during registration or otherwise your personal information, you acknowledge that such information will be collected, used and disclosed by NVIDIA in accordance with NVIDIA's privacy policy, available at URL [http://www.nvidia.com/object/privacy\\_policy.html](http://www.nvidia.com/object/privacy_policy.html).

### **DISCLAIMER OF WARRANTY**

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NVIDIA PRODUCTS ARE NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN CONNECTION WITH THE DESIGN, CONSTRUCTION, MAINTENANCE, AND/OR OPERATION OF ANY SYSTEM WHERE THE USE OR A FAILURE OF SUCH SYSTEM COULD RESULT IN A SITUATION THAT THREATENS THE SAFETY OF HUMAN LIFE OR SEVERE PHYSICAL HARM OR PROPERTY DAMAGE (INCLUDING, FOR EXAMPLE, USE IN CONNECTION WITH ANY NUCLEAR, AVIONICS, LIFE SUPPORT OR OTHER LIFE CRITICAL APPLICATION). NVIDIA EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH HIGH RISK USES. NVIDIA SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY, IN WHOLE OR IN PART, FOR ANY CLAIMS OR DAMAGES ARISING FROM SUCH USE.

#### **LIMITATION OF LIABILITY**

IN NO EVENT SHALL NVIDIA BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, TECHNOLOGY, DATA, REVENUE, PRODUCTION, OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THESE SUPPORT SERVICES, OR THE USE OR PERFORMANCE OF ANY PRODUCT OR SOFTWARE, WHETHER BASED ON CONTRACT OR TORT, INCLUDING NEGLIGENCE, OR ANY OTHER LEGAL THEORY, EVEN IF NVIDIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NVIDIA DOES NOT WARRANT ANY SOFTWARE UNDER THESE TERMS AND CONDITIONS. WARRANTIES, IF ANY, FOR THE SOFTWARE ARE CONTAINED IN THE APPLICABLE LICENSE AGREEMENT WHICH ACCOMPANIES THE SOFTWARE.

ADDITIONALLY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NVIDIA'S TOTAL CUMULATIVE AGGREGATE LIABILITY FOR ANY AND ALL LIABILITIES, OBLIGATIONS OR CLAIMS ARISING OUT OF OR RELATED TO ALL PRODUCT SUPPORT SERVICES SOLD UNDER THESE TERMS AND CONDITIONS, SHALL NOT EXCEED THE PRICE PAID BY YOU OR THE RESELLER TO NVIDIA (NET OF REBATES AND/OR OTHER CREDITS ISSUED TO YOU OR THE RESELLER) FOR THE PRODUCT(S) UPON WHICH LIABILITY IS BASED. THESE LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER SUCH CLAIMS OR CAUSES OF ACTION ARISE FROM BREACH OF CONTRACT, WARRANTY, TORT, INDEMNITY, STRICT LIABILITY, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF THE LOSS OR DAMAGE OR IF THE LOSS OR DAMAGE COULD HAVE BEEN REASONABLY FORESEEN. YOU ACKNOWLEDGE THAT NVIDIA HAS SET ITS PRICES AND ENTERED INTO THESE TERMS AND CONDITIONS IN RELIANCE UPON THE LIMITATIONS OF LIABILITY AND THE DISCLAIMERS OF WARRANTIES AND DAMAGES SET FORTH HEREIN, AND THAT THE SAME FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES. THE PARTIES AGREE THAT THE LIMITATIONS AND EXCLUSIONS OF LIABILITY AND DISCLAIMERS SPECIFIED IN THESE TERMS AND CONDITIONS WILL SURVIVE AND APPLY EVEN IF FOUND TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT (I.E. THE EXISTENCE OF TWO OR MORE CLAIMS WILL NOT ENLARGE THIS LIMIT).

These terms and conditions shall be governed in all respects by the laws of the United States and of the State of Delaware as those laws are applied to contracts entered into and performed entirely within Delaware by Delaware residents, without regard to the conflicts of laws principles thereof. You hereby agree to all terms of these Support Services in the English language. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed. The state and/or federal courts residing in Santa Clara County, California shall have exclusive jurisdiction over any dispute or claim arising out of these Support Service terms. The invalidity in whole or in part of any provision of these terms and conditions and the RMA policy, shall not affect the validity of any other provision thereof.

#### **CHANGES TO SUPPORT SERVICES TERMS AND CONDITIONS**

If NVIDIA makes changes to these terms and conditions, then NVIDIA will present such revised terms and conditions to you by posting an updated version generally on the Product website page, through the Support Services portal, in an email notification or through other reasonable means. The new Support Service terms will apply to you, provided they apply to customers generally and do not single you out.

#### **CONTACT INFORMATION**

For additional information about these Support Services, please contact [enterprisesupport@nvidia.com](mailto:enterprisesupport@nvidia.com).