

Digi Infrastructure Management Packaged Solutions Terms and Conditions

1. This document contains the terms and conditions (“Terms”) that apply to Customer’s purchase of certain Digi Infrastructure Management Products (“IM Products”) with Digi LifeCycle Assurance Subscriptions (“Digi IM Packaged Solutions”) from Digi International Inc. (“Seller” or “Digi”) or Digi’s authorized resellers and distributors. By accepting delivery of the Digi IM Packaged Solution from Digi or Digi’s authorized resellers and distributors, Customer agrees to be bound and to accept these terms and conditions. These terms and conditions shall apply unless Customer and Seller have signed a separate purchase agreement with different terms and conditions which expressly control.
2. Each Digi IM Packaged Solution includes an IM Product and a one-year Digi LifeCycle Assurance Subscription assigned to the serial number of the included IM Product. The Digi LifeCycle Assurance Subscription includes:
 - a. Digi Remote Manager (DRM) Premier service. DRM is governed by Digi’s DRM terms of service at <https://www.digi.com/legal/digi-rm-terms-of-service>, which are incorporated herein.
 - b. Digi Expert Support. Digi’s support services and policies are described at <https://www.digi.com/support/support-services>, which are incorporated herein.
 - c. Customer may purchase certain add-on features to its Digi LifeCycle Assurance Subscription, including Digi On-Prem Manager and data plans. If Customer has purchased those add-on features, the following terms shall also apply:
 - i. Digi On-Prem Manager is governed by the End-User License Agreement at <https://www.digi.com/legal/digi-on-prem-manager-eula>, which is incorporated herein and
 - ii. Data plans are governed by the Wireless Services Terms of Service at <https://www.digi.com/legal/wireless-terms>, which are incorporated herein.
3. Digi LifeCycle Assurance Subscription Term. The start date for the one-year Digi LifeCycle Assurance Subscription depends on whether Digi or an authorized distributor/reseller ships the IM Products to the Customer, as shown below:

Shipping Origin	Digi LifeCycle Assurance Subscription start date
Shipping from Digi	Date of shipment
Shipping from a Digi authorized distributor or reseller	30 days after Digi receives point of sale data from the authorized distributor or reseller for the relevant subscription. Customer can activate the device before then and will receive that portion of service for free.

The Digi LifeCycle Assurance Subscription assigned to the serial number of the IM Product must be activated within 6 months of receipt of the IM Product by Customer. Subscriptions that are not activated within 6 months are void.

4. Payment. Payment terms are net 30 days from invoice date with approved credit. If credit has not been established with Seller, terms may be designated as payment in advance. Seller reserves the right at any time and for any reason to require payment in advance, or otherwise to modify, suspend, or terminate any credit terms previously extended to Customer. Seller shall be entitled to refuse or delay

shipments for failure by Customer to pay within terms any payments due Seller, whether on this or any other contract between Seller and Customer. Payments should be made according to the instructions on the face of the invoice, based on the form of payment. Acceptable forms of payment include check, money order, wire transfer, SWIFT Transfer, VISA, MasterCard, or American Express, all in United States of America currency only (USD). Prices are subject to change without notice. Seller may adjust pricing in cases where Customer volume commitments are not met. A 1.5% per month service charge, or the maximum permitted by law, whichever is less, may be added to delinquent accounts. In the event that it becomes necessary for Seller to incur collection costs or institute a suit to collect any amount due and payable, Customer agrees to pay such additional collection costs, charges, and expenses, including attorney's fees if the account is placed in the hands of an attorney or an agency for collection.

5. Shipment; Shipping Charges; Taxes. All shipments are F.O.B. shipping point for U.S. domestic shipments and Ex Works (INCOTERMS 2010) for shipments to locations outside the U.S. The full purchase price shall be invoiced upon delivery to a common carrier. Shipping Charges; Taxes. Separate charges for shipping and handling will be shown on the invoice(s). Unless Customer provides Seller with a valid and correct tax exemption certificate applicable to the IM Product ship-to location prior to Seller's acceptance of the order, Customer is responsible for sales and all other taxes associated with the order. If applicable, a separate charge for taxes will be shown on the invoice.

6. Title; Risk of Loss. Title to IM Products and risk of loss passes from Seller to Customer upon shipment from Seller's facilities and delivery of IM Products to a common carrier. Title to software will remain with the applicable licensor(s).

7. Claims for Omitted or Damaged Goods. Any claims by Customer for omission of IM Products in the shipped goods, shortages of IM Products, or damaged goods in a shipment are waived by Customer unless Customer provides notice to Seller within 10 days after Customer's receipt of shipment.

8. Standard Warranty.

a. Seller warrants IM Products will be free from defects in materials and workmanship for a period of five years from delivery. Seller warrants that software or firmware in IM Products will materially conform to its published specification for a period of ninety (90) days. Seller does not warrant that the software or firmware or any portion thereof is error free.

b. Seller will have no warranty obligation with respect to IM Products subjected to abuse, misuse, negligence, modification or accident.

c. If any software or firmware incorporated in any IM Product fails to conform to the warranty set forth in this Section, Seller shall provide a bug fix or software patch correcting such non-conformance within a reasonable period after Seller receives from Customer (i) notice of such non-conformance, and (ii) sufficient information regarding such non-conformance so as to permit Seller to create such bug fix or software patch.

d. If any hardware component of any IM Product fails to conform to the warranty in this Section, Seller shall, at its option, refund the purchase price less any discounts, or repair or replace non-conforming IM Products with conforming IM Products or IM Products having substantially identical form, fit, and function and deliver the repaired or replacement IM Product to a carrier for land shipment to customer within a reasonable period after Seller receives from Customer (i) notice of such non-conformance, and (ii) the non-conforming IM Product provided; however, if, in its opinion, Seller cannot repair or replace on commercially reasonable terms it may choose to refund the purchase price. IM Products returned under this Warranty must be unmodified and in original packaging. Repair parts and replacement IM

Products may be reconditioned or new. All replacement IM Products and parts become the property of Seller. Repaired or replacement IM Products shall be subject to the warranty, if any remains, originally applicable to the IM Product repaired or replaced. Customer must obtain from Seller a Return Authorization Number prior to returning any IM Products to Seller. Seller's sole obligation under the warranty shall be to repair or replace non-conforming IM Products as set forth in the immediately preceding paragraph, or to refund the documented purchase price for non-conforming IM Products to Customer.

e. As a condition to Seller's obligations under the immediately preceding paragraph, Customer shall return IM Products to be examined and replaced to Seller's facilities, in shipping cartons which clearly display a valid Return Authorization Number provided by Seller. Customer acknowledges that replacement IM Products may be repaired, refurbished or tested and found to be complying. Customer shall bear the risk of loss for such return shipment and shall bear all shipping costs. Seller shall deliver replacements for IM Products determined by Seller to be properly returned and shall bear the risk of loss and costs of shipment of repaired products or replacements. IM Products determined by Seller to be not properly returned shall be redelivered to Customer FOB Seller's facilities upon payment of shipping costs by Customer.

f. Seller's warranty obligations shall run solely to Customer, and Seller shall have no obligation to customers of Customer or other users of the IM Products. For the avoidance of any doubt and without limiting the scope of the prior sentence, no warranty is provided to parties who have obtained IM Products from any party not authorized by Seller to resell IM Products.

9. Limitation of Warranty and Remedies.

a. THE WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO IM PRODUCTS PURCHASED BY CUSTOMER. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT ARE EXPRESSLY DISCLAIMED. DIGI'S AGGREGATE LIABILITY WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE SHALL NOT EXCEED THE PURCHASE PRICE PAID BY CUSTOMER FOR THE IM PRODUCT AND DIGI LIFECYCLE ASSURANCE SUBSCRIPTION. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE IM PRODUCTS AND DIGI LIFECYCLE ASSURANCE SUBSCRIPTION IS A CONSIDERATION IN LIMITING SELLER'S LIABILITY. NO ACTION, REGARDLESS OF FORM, ARISING OUT OF THIS AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ACCRUED.

b. IN ADDITION TO THE WARRANTIES DISCLAIMED ABOVE, SELLER SPECIFICALLY DISCLAIMS ANY AND ALL LIABILITY AND WARRANTIES, IMPLIED OR EXPRESSED, FOR USES REQUIRING FAIL-SAFE PERFORMANCE IN WHICH FAILURE OF AN IM PRODUCT COULD LEAD TO DEATH, SERIOUS PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE SUCH AS, BUT NOT LIMITED TO, LIFE SUPPORT OR MEDICAL DEVICES OR NUCLEAR APPLICATIONS. IM PRODUCTS ARE NOT DESIGNED FOR AND SHOULD NOT BE USED IN ANY OF THESE APPLICATIONS.

10. Indemnification.

a. Seller shall defend or settle any claim, suit, or action against Customer based on an allegation that any IM Product purchased by Customer from Seller infringes any third party's U.S. patent or copyright; provided, that Customer has made no modification or alterations to

the IM Product and that Customer gives Seller prompt written notice of any claim or suit, sole authority to defend or settle as it sees fit, and full cooperation. Seller may, at its sole option and expense (i) defend the claim, suit or action (ii) procure for Customer the right to continue using the IM Product (iii) modify the IM Product so that it is non-infringing (iv) procure a replacement product that has substantially the same functionality, or if none of the above options is reasonably available (iv) refund to customer the purchase price originally paid less a use credit for the period of use.

b. Seller has no liability for any claim, suit or action based in whole or in part upon or arising out of compliance with Customer's designs, specifications or instructions, modification of the Hardware or Software, the combination of the Hardware or Software with products or items not furnished by Seller, including, but not limited to, claims involving in whole or in part the manner in which the Hardware or Software is used, or claims relating to compliance with industry standards, including but not limited to all generations of Wi-Fi, LoRaWAN, 3G, LTE, and 5G. THIS SECTION STATES SELLER'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM, SUIT, OR ACTION ALLEGING INFRINGEMENT OF ANY THIRD PARTY PATENT OR COPYRIGHT.

11. Software and Software Updates. All software (including firmware) is owned by Seller or a third party licensor who shall retain exclusive right, title and ownership of the software. Customer is granted a limited, personal, non-exclusive license, without the right to sublicense, to use the software only with the specific Seller manufactured hardware that such software is intended to operate with or, if not for use with specific Seller manufactured hardware, then for the use intended by the IM Product specification. IM Products may need to have the most current version of software or firmware to update successfully. Customers who do not use DRM for the wireless remote updating of software or firmware are responsible for manually updating those IM Products to the most current version of software or firmware and for all other manual updating. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES IT IS RESPONSIBLE FOR ANY NECESSARY MANUAL UPDATING OF IM PRODUCTS SOFTWARE, AND FIRMWARE. DIGI IS NOT RESPONSIBLE FOR ANY LOSS OF SECURITY CAUSED OR CONTRIBUTED TO BY CUSTOMER'S FAILURE TO PROPERLY CONFIGURE THE IM PRODUCTS OR INSTALL SOFTWARE AND FIRMWARE SECURITY UPDATES. THIS IS A CONDITION OF SALE BY SELLER. THIS IS A CONDITION OF IM PRODUCT SALE BY SELLER.

12. Cancellation; Termination. Accepted orders are non-cancelable and IM Products are non-returnable. If Customer terminates or cancels a Digi LifeCycle Assurance Subscription before the expiration of the Term, Customer will not be entitled to a refund of any amount paid for subscriptions still in effect at the time of termination or cancellation, and Customer's obligation to pay any balance due shall survive any such termination or cancellation.

13. Transferability. Digi LifeCycle Assurance Subscriptions are tied directly to the serial number for the IM Product and are not transferrable between IM Products, except in the case of return authorizations and replacements under warranty.

14. No Conflicts. Customer represents and warrants that (i) the Agreement has been duly entered into and constitutes a valid and binding agreement enforceable against Customer in accordance with its terms; (ii) no authorization or approval from any third party is required in connection with Customer entering into or performance of the Agreement; and (iii) the entering into and performance of the Agreement does not violate the terms or conditions of any other agreement to which Customer is a party or by which Customer is otherwise bound.

15. **Governing Law.** THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF MINNESOTA. The United Nations Convention on Contracts for the International Sale of goods shall not apply. Customer agrees to comply with all applicable laws and regulations of the various states and of the United States. Customer agrees to comply with all United States laws concerning export or re-export of products and related technology and documentation.
16. **Disputes.** The parties agree that the courts of the State of Minnesota shall have exclusive jurisdiction over any claim, or dispute or controversy (whether in contract, tort or otherwise) against Seller, its agents, employees, successors, assigns or affiliates arising out of or relating to this document, Seller's IM Products advertising, or any related purchase. Customer agrees to appear in any such action and hereby consents to the jurisdiction of such court.
17. **Force Majeure.** Seller shall not be liable for any damages or penalty for delay in delivery or for any other failure to perform in accordance with the terms and conditions hereof if such delay or failure to perform is due in whole or in part to factors beyond Seller's reasonable control, including, but not limited to, delay in transportation, unavailability of materials or delay in delivery by Seller's vendors.
18. **Export Restrictions.** Customer agrees to comply with all applicable United States export control laws and regulations concerning export and re-export of IM Products, technology and documentation, including without limitation, the laws and regulations administered by the United States Department of Commerce and the United States Department of State.
19. **Acceptance.** All goods and services will be deemed accepted at the time of delivery. Acceptance of a Customer's order is based on these terms and conditions of sale applying. By accepting delivery of IM Products, connecting IM Products to a network, or using the services provided in the Digi LifeCycle Assurance Subscription, the Customer agrees to be bound and to accept these terms and conditions.
20. **Severability.** Any waiver of or modification to the terms of this Agreement will not be effective unless executed in writing and signed by Seller. If any provision of these terms and conditions are held to be unenforceable, in whole or in part, such holding shall not affect the validity of the other provisions of this document (In the event of any inconsistency between these terms and conditions and any other related agreements between Customer and Seller, the terms of this document shall prevail unless any other agreement(s) are signed by both parties and state its/their terms and conditions control).
21. **Entire Agreement.** The terms and conditions set forth herein constitute the entire agreement between Seller and Customer. Seller's offer to sell is expressly limited to the terms stated herein. Seller shall not be bound by any terms of Customer's order which add to, modify, or are in any way different from the terms set forth in this document.
22. **Survival.** The rights and obligations which are continuing in nature (including Sections 4, 9, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21) will survive any suspension or termination of the Agreement.

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