

Digi Cellular Packaged Solutions Terms and Conditions

THIS DOCUMENT CONTAINS THE TERMS AND CONDITIONS (“TERMS”) THAT APPLY TO CUSTOMER’S PURCHASE OF DIGI CELLULAR ROUTERS (“CELLULAR EDGE DEVICE”) WITH DIGI 360 SUBSCRIPTIONS (“DIGI CELLULAR PACKAGED SOLUTIONS”) FROM DIGI INTERNATIONAL INC. (“SELLER” OR “DIGI”) OR DIGI’S AUTHORIZED RESELLERS AND DISTRIBUTORS. BY ACCEPTING DELIVERY OF THE DIGI CELLULAR 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.

Digi reserves the right, in its sole discretion, at any time and from time to time, to replace, modify, add to or retract/delete all or any portion of these Terms. Any revisions to these Terms will become effective, and will constitute an amendment to this Agreement, twenty (20) business days after such revisions are posted. Your continued use of the Services after the applicable effective date of such revisions will conclusively establish Customer’s acceptance to be bound by the revised Terms.

1. DEFINITIONS

The following definitions apply to capitalized terms used in this document:

- a. “Cellular Edge Device” means any Digi 360 capable cellular router device.
- b. “Digi Remote Manager®” or “Digi RM” means the Digi cloud service which provides remote device and network monitoring as well as, updating and management of Digi routers, gateways and other products.
- c. “Order Form” means an ordering document, renewal, or online order specifying the Services to be provided hereunder that is entered into between Customer and Seller or Digi’s authorized reseller or distributor.
- d. “Services” or “Service” mean the Digi 360 hardware, software, and services that are ordered by Customer under an Order Form, (2) service or features ordered online through use of the Services, (3) Evaluation Services, or (4) mobile applications made available by Digi. Services may be hosted on servers under control or direction of Digi or its third-party providers. Services exclude third party applications, products, or services not provided by Digi.

2. Provision of Services

- a) Each Digi Cellular Packaged Solution includes a Cellular Edge Device and a one (1) year Digi 360 Subscription assigned to the serial number of the included Cellular Edge Device. The Digi 360 Subscription includes:
 - Digi Remote Manager (DRM) service. DRM is governed by Sections 3, 5, 8, 9, 11, 12, and 15 of Digi’s DRM terms of service at <https://www.digi.com/legal/digi-rm-terms-of-service>, which are incorporated herein. DRM terms of service relating to renewal, extensions, termination, indemnity and limitation of liability are not incorporated herein.

To the extent the DRM terms of service are in conflict with these Terms, these Terms apply.

- Digi 24x7 Expert Support. Digi’s Expert Support service and policy are described at <https://www.digi.com/support/support-services>, which are incorporated herein.
- Limited Lifetime Warranty (Section 10)

b) Evaluation Services. If Digi makes Evaluation Services available to Customer, Customer may only use the Evaluation Services on a temporary basis for the designated period of time (the “Evaluation Period”). If there is no Evaluation Period specified, such use is limited to 90 days after the Evaluation Services are made available to Customer. If Customer does not stop using the Evaluation Services or the hardware on which it is authorized for use by the end of the Evaluation Period, Digi or Digi’s authorized reseller or distributor may invoice Customer for the applicable list price and Customer agrees to pay such invoice subject to the payment terms in Section 6. The Evaluation Services are provided “as is” and may contain bugs, errors, or other issues. Unless approved by Digi, Customer will not use Evaluation Services in a production environment. Digi may stop providing the Evaluation Services at any time and Customer will stop using the Evaluation Services at such time. Any data Customer enters into the Services and any configurations made to the Services by Customer during the Evaluation Period will be permanently lost unless Customer purchases a subscription to the same Services before the end of the Evaluation Period. Evaluation Services may not be renewed or extended.

3. Digi 360 Subscription Initial Term

a. The Service Term of each subscription shall be as specified in the applicable Order Form (“Initial Term”). The start date for the Initial Term depends on whether Digi or an authorized distributor/reseller ships the Cellular Edge Device to Customer, as shown below:

Shipping Origin	Digi 360 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. If Customer receives device prior, Customer can activate the device and use the service free of charge.

The Digi 360 Subscription assigned to the serial number of the Cellular Edge Device must be activated within 60 days of receipt of the Cellular Edge Device. Customer is responsible for ensuring the service is activated within 60 days. Subscriptions that are not activated within 60 days are void.

4. Renewal

The term of this agreement will renew automatically for 1 year from the then-current term end date unless the Customer give the Seller notice of non-renewal in advance of the end of then-current term.

The Customer can also extend beyond 1 year term with a corresponding purchase order in advance of the end of the then-current term. Renewal fees will be due and payable in full, at the price in effect at that time, directly to Digi.

5. Suspension, Cancellation, and Termination

- a. Accepted orders are non-cancelable and Cellular Edge Devices and Digi Cellular Packaged Solutions are non-returnable. If Customer terminates or cancels a Digi 360 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.
- b. Digi may, without liability, suspend or terminate any Digi 360 Subscription if (i) Customer is engaging in suspected fraudulent, unlawful, or unauthorized use, (ii) Customer is listed on a government-issued restricted persons or entities list or warning list; (iii) Digi, in its discretion, determines that Customer's use of the Digi 360 Subscription poses a business, technological or legal risk to Digi or its customers; (iv) Customer has breached these Terms; (v) Customer's payments are past due; or (vi) in the event of a possible or actual security breach or cyber-attack on the Service.
- c. If Digi suspends a subscription ("Suspended Subscription"), Customer has 30 days ("Suspension Period") to rectify the problem.
- d. If a subscription is suspended under Section 5(b)(v), Customer may renew the Suspended Subscription during the Suspension Period. Upon payment to Digi, the Customer's subscription becomes active, back-dated to the expiration of the Term. Renewals during the Suspension Period are subject to a reinstatement fee of 10% of the renewal quote less any discounts (at prevailing MSRP rates), at Digi's discretion.
- e. After 30 days, a Suspended Subscription becomes inactive ("Inactive Subscription"). When a subscription becomes an Inactive Subscription, DRM access is revoked, the Limited Warranty ends, and Expert Support is not available. The Cellular Edge Device will operate with the last-loaded firmware and configuration settings. Customer may purchase a new subscription for inactive devices ("Reactivated Subscription") within three years of the purchase date of the Cellular Edge Device. Reactivated Subscriptions require a new quote. Reactivated Subscriptions are subject to a reinstatement fee equal to 15% of the new quote less any discounts (at prevailing MSRP rates) and an additional fee related to the period the subscription was inactive, at Digi's discretion.

6. 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 or provide services 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. A 1.5% per month service charge, or the maximum permitted by law, whichever is less, may be added to delinquent accounts. If 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.

7. Shipment, Shipping Charges; Taxes

- a. 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.
- b. Separate charges for shipping and handling will be shown on the invoice(s).
- c. Unless Customer provides Seller with a valid and correct tax exemption certificate applicable to the Cellular Edge Device 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.

8. Title, Risk of Loss

Title to Cellular Edge Devices and risk of loss passes from Seller to Customer upon shipment from Seller's facilities. Title to software will remain with the applicable licensor(s).

9. Claims for Omitted or Damaged Goods

Any claims by Customer for omission of Cellular Edge Devices in the shipped goods, shortages of Cellular Edge Devices, 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 and picture documentation of damages.

10. Limited Lifetime Warranty

- a. Subject to the limitations in this Section, Seller warrants Cellular Edge Devices will be free from defects in materials and workmanship for the duration of the Active Subscription associated with the Cellular Edge Device, for a maximum of five years after shipment of the Cellular Edge Device. Seller warrants that software or firmware in Cellular Edge Devices 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. The warranties in this Section do not cover failure due to normal wear and tear, misuse, negligence, accident, modification, reverse engineering, or adjustment, acts of God, improper ventilation, or damage resulting from liquid. These warranties apply to Cellular Edge Devices before their last date of support (EOL) and with Active Subscriptions only and are not available for Cellular Edge Devices with Suspended Subscriptions or Inactive

Subscriptions. These warranties are non-transferable and extend only to the original purchaser of the Cellular Edge Device from Digi or an authorized reseller or distributor.

- b. Seller's warranty obligations shall run solely to Customer, and Seller shall have no obligation to customers of Customer or other users of the Cellular Edge Devices. No warranty is provided to parties who have obtained Cellular Edge Devices from any party not authorized by Seller to resell Cellular Edge Devices.
- c. If any software or firmware incorporated in any Cellular Edge Device 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 commercially 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. This warranty is limited to either the repair, replacement, or account credit for the depreciated value of the Cellular Edge Device (at Digi's sole discretion) of the defective product during its warranty period.
- e. Cellular Edge Devices returned under this Warranty must be unmodified and in original packaging. Repair parts and replacement Cellular Edge Devices may be reconditioned or new. All replacement Cellular Edge Devices and parts become the property of Seller. Repaired or replacement Cellular Edge Devices shall be subject to the warranty, if any remains, originally applicable to the Cellular Edge Device repaired or replaced. Customer shall return Cellular Edge Devices 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 Cellular Edge Devices may be repaired, refurbished or tested and found to be complying.
- f. Customer shall bear the risk of loss for such return shipment and shall bear all shipping costs. Seller shall deliver replacements for Cellular Edge Devices determined by Seller to be properly returned and shall bear the risk of loss and costs of shipment of repaired Cellular Edge Devices or replacements. Cellular Edge Devices determined by Seller to be not properly returned shall be redelivered to Customer FOB Seller's facilities upon payment of shipping costs by Customer.

11. Limitation of Warranty and Remedies

- a. THE WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO CELLULAR EDGE DEVICES 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 CELLULAR EDGE DEVICE AND DIGI 360 SUBSCRIPTION. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE CELLULAR EDGE DEVICES AND DIGI 360 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 A CELLULAR EDGE DEVICE 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. CELLULAR EDGE DEVICES ARE NOT DESIGNED FOR AND SHOULD NOT BE USED IN ANY OF THESE APPLICATIONS.

12. Indemnification

- a. Seller shall defend or settle any claim, suit, or action against Customer based on an allegation that any Cellular Edge Device 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 Cellular Edge Device 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 Cellular Edge Device (iii) modify the Cellular Edge Device 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.

13. Software and Software Updates

- a. 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 Cellular Edge Device specification.
- b. Cellular Edge Devices may need to have the most current version of software or firmware to update successfully.
- c. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES IT IS RESPONSIBLE FOR ANY NECESSARY MANUAL UPDATING OF CELLULAR EDGE DEVICES. DIGI IS NOT RESPONSIBLE FOR ANY LOSS OF SECURITY CAUSED OR CONTRIBUTED TO BY CUSTOMER'S FAILURE TO

PROPERLY CONFIGURE THE CELLULAR EDGE DEVICES OR INSTALL SOFTWARE AND FIRMWARE SECURITY UPDATES. THIS IS A CONDITION OF CELLULAR EDGE DEVICE SALE BY SELLER.

14. Transferability

Digi 360 Subscriptions are tied directly to the serial number for the Cellular Edge Device and are not transferrable between Cellular Edge Devices, except in the case of return authorizations and replacements under warranty.

15. 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.

16. 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.

17. 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 Cellular Edge Devices advertising, or any related purchase. Customer agrees to appear in any such action and hereby consents to the jurisdiction of such court.

18. Force Majeure

Neither Party will be liable for any failure to fulfill an obligation under this Agreement if such fulfillment is delayed, prevented, restricted or interfered with for any reason as a result of a Force Majeure Event. Force Majeure Events include, but are not limited to fire, explosion, act of God or public enemy, power blackout, earthquake, flood, embargo, civil disorder, riot, act of civil or military authority, act of public enemy, terrorist threat or activity, war (declared or undeclared), civil disturbance, act of any government or government shutdown, unusually severe weather, act of any Telecommunication

Service(s) provider, quarantine or restriction, epidemic, pandemic, or catastrophe, interruption or failure of telecommunication or digital transmission link, Internet failure or delay, or any other cause beyond the Party's reasonable control, provided that such delay, failure, loss or damage could not have been prevented by commercially reasonable precautions.

19. Export Restrictions

Customer agrees to comply with all applicable United States export control laws and regulations concerning export and re-export of Cellular Edge Devices, 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.

20. 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 Cellular Edge Devices, connecting Cellular Edge Devices to a network, or using the services provided in the Digi 360 Subscription, the Customer agrees to be bound and to accept these terms and conditions.

21. 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).

22. 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.

23. Survival

The rights and obligations which are continuing in nature (including Sections 6, 8, 11, 16 -23) will survive any suspension or termination of the Agreement.

Last Modified September 19, 2024