

# Digi International Inc. Standard Terms & Conditions of Sale

This document contains the terms and conditions that apply to Customer's purchases of Products (**Digi-Branded** Products and **Rabbit-Branded** Products) from Digi International Inc. ("Seller"). Acceptance of Customer's order is based on these terms and conditions of sale applying. By accepting delivery of Products from Seller, 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.

**1. Terms of Sale.** Standard lead times apply to all orders. Accepted orders are non-cancelable and Products are non-returnable. Seller may adjust pricing in cases where Customer volume commitments are not met. 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. 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. 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. Prices are subject to change without notice. Payments should be made according to the instructions on the face of the invoice, based on the form of payment described below.

**2. Forms 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).

**3. 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 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.

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

**5. Claims for Omitted or Damaged Goods.** Any claims by Customer for omission of Products in the shipped goods, shortages of Product, 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.

**6. Limited Warranty.**

(a) Seller warrants that Products will be free from defects in materials and workmanship for the period of time set forth from delivery in the below chart:

<b>Product Category</b>	<b>Warranty</b>
Single Board Computers (ConnectCore® 6, 6+, 6UL, 8X and Rabbit® SBCs)	1 year
Digi XBee®, Digi XBee-PRO®, Digi XBee 3® and Digi XTend® Modules, Adapters, Modems, Sensors and Accessories (e.g. USB Adapter, Wall Router, Multi Programmer)	1 year
Microprocessors (NetSilicon, Rabbit)	1 year
Accessories (antennas, cables, power supplies)	1 year
Embedded System-on-Modules (ConnectCore 9C, 9P, 9U, i.MX28/51/53/6/6+/6UL/8X, Connect® EM/ME/SP/N2S)	3 years
Embedded System-on-Modules (RabbitCore®)	1 year
Cellular Routers and Gateways (ConnectPort® X gateways, TX, IX, and EX routers/extenders, ConnectSensor, WVA, XBee® Industrial Gateway)	3 years*
USB Hubs, Console Servers, Terminal Servers (AnywhereUSB®, Digi CM, Connect WS, ConnectPort TS and LTS, Digi One®, Edgeport®, Hubport®, Digi Neo®, Digi Passport®, PortServer®, Rapidport)	5 years

\*Standard 3 year warranty upgradeable to 5 years with purchase of a Digi Remote Manager® 5 year subscription applicable to the product purchased only at the time of product purchase and with product registration at that time in the Digi Remote Manager application. This upgrade is not available for WVA.

Seller warrants that software (including firmware) will materially conform to its published specification for a period of ninety (90) days. Seller does not warrant that the software or any portion thereof is error free. Seller will have no warranty obligation with respect to damaged Products or Products subjected to abuse, misuse, negligence, modification or accident. If any software or firmware incorporated in any 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. Products may need to have the most current version of software or firmware to update successfully. If Customer does not subscribe to Digi Remote Manager ("DRM") cloud service or does not use it for the wireless remote updating of software and firmware it will be responsible for manually updating its Products to the most current version of software and firmware and for all other manual updating. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES IT IS RESPONSIBLE FOR ANY NECESSARY MANUAL UPDATING OF 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 PRODUCTS OR INSTALL SOFTWARE AND FIRMWARE SECURITY UPDATES. THIS IS A CONDITION OF PRODUCT SALE BY SELLER. If any hardware component of any 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 Products with conforming Products or Products having substantially identical form, fit, and function and deliver the repaired or replacement 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 Product provided; however, if, in its opinion, Seller cannot repair or replace on commercially reasonable terms it may choose to refund the purchase price. Repair parts and replacement Products may be reconditioned or new. All replacement Products and parts become the property of Seller. Repaired or replacement Products shall be subject to the warranty, if any remains, originally applicable to the Product repaired or replaced. Customer must obtain from Seller a Return Authorization Number (RA) prior to returning any Products to Seller. A Return Authorization will not be approved unless Seller has confirmed through troubleshooting that the device should be returned. A No Problem Found (NPF) fee will be assessed if Seller does not find the Products to be defective. Products returned under this Warranty must be unmodified and in original packaging.

(b) As a condition to Seller's obligations under the immediately preceding paragraph, Customer shall return 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 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 Products determined by Seller to be properly returned and shall bear the risk of loss and costs of shipment of repaired products or replacements. 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.

(c) Seller's sole obligation under the warranty described or set forth here shall be to repair or replace non-conforming products as set forth in the immediately preceding paragraph, or to refund the documented purchase price for non-conforming Products to Customer. Seller's warranty obligations shall run solely to Customer, and Seller shall have no obligation to customers of Customer or other users of the 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 Products from any party not authorized by Seller to resell Products.

#### **7. Limitation of Warranty and Remedies.**

THE WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO 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 LIABILITY WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE SHALL NOT EXCEED THE PURCHASE PRICE PAID BY CUSTOMER FOR THE PRODUCT. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES. THE PRICE STATED FOR THE PRODUCTS 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.

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 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. PRODUCTS ARE NOT DESIGNED FOR AND SHOULD NOT BE USED IN ANY OF THESE APPLICATIONS.

**8. Indemnification.** Seller shall defend or settle any claim, suit, or action against Customer based on an allegation that any 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 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 Product (iii) modify the 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.

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 involving 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.

**9. 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 Product specification. Products may need to have the most current version of software or firmware to update successfully. If Customer does not subscribe to Digi Remote Manager ("DRM") cloud service or does not use it for the wireless remote updating of software it is responsible for manually updating its Products to the most current version of software and firmware and all other manual updating of Products. CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES IT IS RESPONSIBLE FOR ANY NECESSARY MANUAL UPDATING OF 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 PRODUCTS OR INSTALL SOFTWARE AND FIRMWARE SECURITY UPDATES. THIS IS A CONDITION OF PRODUCT SALE BY SELLER.

**10. 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.

**11. 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 Products advertising, or any related purchase. Customer agrees to appear in any such action and hereby consents to the jurisdiction of such court.

**12. 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.

**13. Export Restrictions.** Customer agrees to comply with all applicable United States export control laws and regulations concerning export and re-export of 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.

**14. 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).

**15. 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.

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