

# GENERAL EULA

July 14<sup>th</sup> 2016

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conditions upon which DiGiCo sold the Product to You), DiGiCo does not provide any warranty, maintenance, technical or other support for third party applications and all warranties in the Software are disclaimed as set out in Clause 10 below.

2.2 A list of the third party software, acknowledgement and licences for each Product can be found at <http://www.digico.biz/docs/about/open-source-software.shtml> , as may be updated from time to time.

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### 4 INTELLECTUAL PROPERTY RIGHTS.

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### 5 ADDITIONAL SOFTWARE/SERVICES.

5.1 This EULA and any amendment or addendum to this EULA applies to updates, supplements, or add-on components of the Software that DiGiCo may provide to You, including in accordance with Clauses 2.2 and 2.3, or make available to You after the date You obtain your initial copy of the Software unless a further EULA is provided with these.

### 6 LICENSEE'S UNDERTAKINGS

6.1 Except as expressly set out in this Licence or as permitted by any local law, you undertake:

6.1.1 not to copy the Software or Documentation except where such copying is incidental to normal use of the Software or where it is necessary for the purpose of back-up or operational security;

6.1.2 not to translate, merge, adapt, vary or modify the Software or Documentation, assign the benefit or burden of this Licence in whole or in part, or to allow the Software to become the subject of a charge, lien or encumbrance;

6.1.3 not to make alterations to, or modifications of, the whole or any part of the Software nor permit the Software or any part of it to be combined with, or become incorporated in, any other programs, unless authorised by us in writing;

6.1.4 not to disassemble, decompile, reverse engineer or create derivative works based on the whole, or any part, of the Software nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities:

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(b) is not unnecessarily disclosed or communicated to any third party without our prior written consent; and

(c) is not used to create any software which is substantially similar to the Software;

6.1.5 where You are acting in the course of Your trade, business, craft or profession ("Business Customer"), not to permit the Software to be accessed through an electronic network beyond your normal place of business;

6.1.6 to keep all copies of the Software secure and to maintain accurate and up-to-date records of the number and locations of all copies of the Software;

6.1.7 to supervise and control use of the Software and (where You are a Business Customer) ensure that your employees, representatives and customers use the Software in accordance with the terms of this Licence; and

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## 7 RESALE AND SOFTWARE TRANSFER.

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7.2 Internal: You may transfer the Software to an alternative system. After the transfer, You must completely remove the Software from the former system.

7.3 Transfer to a third party: You may make a one-time permanent transfer of this EULA and the Software to another end user. If you do so (i) You may not retain any copy of the Software, (ii) the transfer must include all of the Software (including all component parts, the media and printed materials, any upgrades and, if applicable, a Certificate of Authenticity) and be subject to this EULA. The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the Software must agree to be bound by this EULA and any amendment or addendum to this EULA.

## 8 TERMINATION.

8.1 Without prejudice to any other rights, DiGiCo may terminate this EULA if You fail to comply with any of the terms of this EULA. In such event, all rights granted to You under this EULA shall cease, You must cease all activities authorised by this EULA and You must destroy all copies of the Software and all of its component parts within your control.

## 9 LIMITED WARRANTY & YOUR EXCLUSIVE REMEDY.

9.1 Subject to Clause 10, DiGiCo warrants that the Software will perform substantially in accordance with the DiGiCo materials that accompany the Software for a period of ninety (90) days from the date of receipt. If an implied warranty or condition is created by the laws of the territory in which you are established or domiciled that cannot be excluded, You are entitled to rely upon it, but only as to defects discovered during the period of this limited warranty (ninety days).

9.2 DIGICO'S ENTIRE LIABILITY, AND YOUR EXCLUSIVE REMEDY, UNDER THE LIMITED WARRANTY PROVIDED IN THIS CLAUSE, OR FOR ANY OTHER BREACH OF THIS EULA, OR FOR ANY OTHER LIABILITY RELATING TO THE SOFTWARE, SHALL BE (AT DIGICO'S OPTION), WHERE YOU HAVE PAID MONEY TO DIGICO FOR THE SOFTWARE (I) RETURN OF THE AMOUNT PAID FOR THE SOFTWARE, OR (II) REPAIR OR REPLACEMENT OF THE SOFTWARE, TO THE EXTENT THAT IT DOES NOT MEET THE LIMITED WARRANTY.

9.3 You will receive the remedy elected by DiGiCo. You are responsible for any expenses You may incur. The Limited Warranty provided in this Clause is void if failure of the Software has resulted from accident, abuse, misapplication, abnormal use, a virus, or combination of the Product or Software with any other product or software. Any replacement Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer, and DiGiCo will use reasonable efforts to provide your remedy within a reasonable time of your compliance with DiGiCo's warranty remedy procedures.

9.4 Where You:

(i) are acting outside the course of Your trade, business, craft or profession, and are using Products for Your domestic, private, and non-commercial use; and

(ii) you have either paid DiGiCo for the Software or a Product for which you were obliged to download and/or install Software on the Product for its proper functioning

(“Consumer”)

the warranties and remedies in relation to the Software shall be those contained in the terms and conditions upon which DiGiCo sold the Products to You as a Consumer (“Consumer Terms of Sale”).

## 10 DISCLAIMERS.

10.1 The Limited Warranty that appears above is the only warranty made to You and is provided in lieu of any other express warranties or similar obligations (if any) created by any advertising, documentation, packaging, or other communications.

10.2 Except for the Limited Warranty and to the maximum extent permitted by applicable law, DiGiCo and its suppliers provide the Software and support services (if any) “AS IS” and “WITH ALL FAULTS”, and hereby disclaim all other warranties and conditions, whether express, implied or statutory, including, but not limited to, any (if any) implied warranties, duties or conditions of merchantability, of fitness for a particular purpose, of reliability or availability, of accuracy or completeness of responses, of results, of workmanlike effort, of lack of viruses, and of lack of negligence, all with regard to the Software, and the provision of or failure to provide support or other services, information, software, and related content through the Software or otherwise arising out of the use of the Software.

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10.4 SO FAR AS IS PERMITTED BY LAW, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION OR NON-INFRINGEMENT WITH REGARD TO THE SOFTWARE.

Where you are a Consumer and there is any conflict between the terms of this Clause 10 and the Consumer Terms of Sale, the Consumer Terms of Sale shall apply.

## 11 LIMITATION OF LIABILITY.

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11.3 Where you are a Consumer and there is any conflict between the terms of this Clause 11 and the Consumer Terms of Sale, the terms of the Consumer Terms of Sale shall apply.

## 12 GENERAL.

12.1 Save where the Software forms part of a Product, this EULA (including any DiGiCo addendum or amendment to this EULA which is included with the Software and the licences referenced in Clause 2) constitutes the entire agreement between You and DiGiCo relating to the Software and the support services (if any) and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software or any other subject matter covered by this EULA. To the extent the terms of any DiGiCo policies or programs for support services conflict with the terms of this EULA, the terms of this EULA shall prevail over such conflicting provisions.

12.2 This EULA is binding on You and DiGiCo and on any respective successors and assigns.

12.3 DiGiCo may transfer, assign, charge, sub-contract or otherwise dispose of this EULA, or any of its rights or obligations arising under it, at any time.

12.4 If any provision of this EULA is held by a competent authority to be illegal, invalid, void or unenforceable under the laws of any jurisdiction, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

12.5 If DiGiCo fails, at any time during the term of this EULA to insist upon strict performance of any of your obligations under this EULA, or if it fails to exercise any of the rights or remedies to which it is entitled under this EULA, this shall not constitute a waiver of such rights or remedies and shall not relieve You from compliance with such obligations. A waiver by DiGiCo of any default shall not constitute a waiver of any subsequent default. No waiver by DiGiCo of any of these terms and conditions shall be effective unless it is expressly stated to be a waiver and is communicated to you in writing.

12.6 DiGiCo will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this Licence that are caused by an event outside of its reasonable control

12.7 All notices given by You to DiGiCo must be given to DiGiCo UK Limited at Unit 10, Silverglade Business Park, Leatherhead Road, Chessington, Surrey KT9 2QL. DiGiCo may give notice to You at your most recent address (be it physical or e-mail) known to DiGiCo, and/or through a notice posted on DiGiCo's then website. Notice will be deemed received and properly

served 24 hours after an e-mail is sent, 24 hours after posting on DiGiCo's website, or three days after the date of posting of any letter.

12.8 This licence shall be governed and construed in accordance with the laws of England and Wales. Subject to DiGiCo being entitled to enforce the terms of this EULA in any court or jurisdiction that it sees fit, any dispute arising from or related to this EULA shall be subject to the non-exclusive jurisdiction of the courts of England and Wales. Where You use the Software outside of England and Wales, the local law may impose greater restrictions on You that You must comply with.

### 13 YOUR ACKNOWLEDGMENT:

13.1 YOU ACKNOWLEDGE THAT YOU HAVE READ THIS EULA, UNDERSTAND IT, AND AGREE BY INSTALLING, DOWNLOADING OR USING THE SOFTWARE TO BE BOUND BY ITS TERMS.

Should you have any questions concerning this EULA, please contact:

[info@digiconsoles.com](mailto:info@digiconsoles.com)

or

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