
Effective: July 7, 2023

These Terms of Service (the “**Terms**”) are entered into between the entity you represent, or if you do not designate any entity, you individually (“**Customer**”, “**you**” or “**your**”) and Sierra Wireless, ULC, a Nova Scotia company on its own behalf and on behalf of its affiliates (“**Semtech**”, “**we**”, “**us**” or “**our**”). By clicking “I agree” or using the Semtech Platform you agree to these Terms.

If you have signed up for direct billing through a Semtech website then these Terms do not apply to you, and your use of the Semtech Platform will instead be governed by the terms accepted through such website.

1. Semtech Platform

- 1.1 Semtech Platform. These Terms govern access to and use of Semtech’s AirLink[®] Management Service (ALMS) software-as-a-service offering, and any other online platform or software as-a-service offering that references these Terms (the “**Semtech Platform**”). The Semtech Platform is used to manage compatible cellular devices or SIMs (each, a “**Device**”).
- 1.2 Device Subscriptions. A valid subscription is required for each Device that is registered in the Semtech Platform (“**Device Subscription**”). Device Subscriptions may be ordered directly from Semtech or from an authorized Semtech distributor or reseller (a “**Reseller**”). Device Subscriptions may in some cases also be included at no additional cost as part of a bundle of other Semtech services (a “**Bundle**”). We may accept or reject orders for Device Subscriptions in our sole discretion.
- 1.3 Provision. Subject to your compliance with these Terms, including your timely payment of all applicable Fees, Semtech grants you and your Authorized Users the right to access and use the Semtech Platform in accordance with your Device Subscriptions during the applicable Device Subscription term(s). You and your Authorized Users may use the Semtech Platform solely in accordance with these Terms.
- 1.4 Optional Features. Certain features of the Semtech Platform are not included in a standard Device Subscription and require a premium Device Subscription or an add-on to a standard Device Subscription.
- 1.5 Limits. We may impose reasonable limits on the use of the Semtech Platform, including the number, data volume and frequency of API calls and Device communications.

2. Your Responsibilities

- 2.1 Accounts. An account will be created for each Customer (the “**Customer Account**”). You are responsible for designating your employees or other individuals who are authorized to access the Semtech Platform (“**Authorized Users**”) and for managing the rights and permissions of Authorized Users. Each Authorized User will be provided with a sub-account under your Customer Account (a “**User Account**”). We may place limits on the number of User Accounts that may be created under a single Customer Account.
- 2.2 Your Responsibilities. You are responsible for any activities by Authorized Users, or by anyone else who accesses the Semtech Platform using User Accounts. You are also responsible for revoking access for Authorized Users if you no longer wish them to have access. You should therefore ensure that you implement appropriate procedures

to maintain the security and confidentiality of the access credentials used by Authorized Users to access the Semtech Platform, and to revoke User Accounts when the Authorized User no longer requires access.

- 2.3 Restrictions. You will not (and will not permit any Authorized User to): (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Semtech Platform available to any third party, other than to Authorized Users or as otherwise contemplated by these Terms; (b) attempt to access or use features of the Semtech Platform that are not covered by your Device Subscriptions, or use the Semtech Platform in a manner that we do not reasonably intend; (c) use the Semtech Platform to send or store any infringing or unlawful information; (d) use the Semtech Platform to create, send, store, or run viruses or other malicious code, files, scripts, agents or other programs, or otherwise engage in a malicious act or disrupt the Semtech Platform security, integrity and operation; (e) interfere with or disrupt the integrity or performance of the Semtech Platform; (f) attempt to gain unauthorized access to the Semtech Platform or any related systems or networks; (g) copy, alter, modify or create derivative works of the Semtech Platform; (h) frame or mirror any content forming part of the Semtech Platform; (i) reverse engineer the Semtech Platform for any purpose; (j) access the Semtech Platform for purposes of developing or operating a competitive product or service, or copy any ideas, features, functions or graphics of the Semtech Platform for third parties in competition with the Semtech Platform or Semtech; (k) access or permit anyone to access the Semtech Platform from any jurisdiction without obtaining all applicable governmental licenses and complying with all applicable laws; or (l) use the Semtech Platform to reproduce, distribute, display, transmit, or use material protected by copyright or other intellectual property rights, including the rights of publicity, without first obtaining the prior written permission of the owner.

3. Intellectual Property; Your Data; Confidentiality

- 3.1 Ownership of Semtech Platform. The Semtech Platform and Device Subscription, including, but not limited to, algorithms or technologies incorporated therein, and any other technology, data, or other items developed or generated by Semtech at any time (and all worldwide intellectual property rights in each of the foregoing, including any improvements, derivative works thereof) are the exclusive property of Semtech and/or our licensors, as applicable. We and our licensors retain all right, title, and interest in the Semtech Platform and Device Subscription developed or used in order to provide the Semtech Platform to you.
- 3.2 Ownership and Confidentiality of Your Data. We do not claim any ownership over Your Data (defined below). We may use Your Data for the following purposes: (a) to provide the Semtech Platform to you and your Authorized Users, including to address service, technical or security issues (b) to comply with these Terms and our legal obligations, and (c) for our own internal benchmarking and analytics purposes. We will treat Your Data confidentially and will not disclose it except (i) to our representatives who have a need to know the information for the purposes described above, and (ii) as required by applicable law, rule or regulation, or pursuant to legal process. "Your Data" means (A) any data or information that is collected by your Devices or systems and transmitted to or from the Semtech Platform, and (B) any data or information that you or your Authorized Users submit to the Semtech Platform, including any account, contact and payment information that you or they submit.
- 3.3 Security of Your Data. We will implement reasonable risk-based measures, tailored to our systems, networks and environment, that are designed to secure Your Data against accidental or unlawful loss, access or disclosure while it is in our possession or control.

- 3.4 Retention of Your Data. The Semtech Platform is not intended to serve as a permanent repository of information or as a data archive. We may choose a data retention period of the Semtech Platform in our reasonable discretion, and delete Your Data without notice once the retention period has expired.
- 3.5 Personal Data. If Your Data includes any personal data that is governed by applicable privacy or data protection laws, it is your responsibility to ensure compliance with such laws. If you require us to enter into a data processing agreement (or any similar agreement relating to our processing of this data) you may contact us in accordance with section 6.3. We will have no obligations with respect to the processing of personal data (other than the obligations in sections 3.2 and 3.3) unless we have signed a separate data processing agreement. If we decline to sign such an agreement, you may terminate your Device Subscriptions in accordance with section 4.2. To the extent that personal data from the European Economic Area (EEA), the United Kingdom, or Switzerland are processed by Semtech, the Standard Contractual Clauses will be applicable.
- 3.6 Feedback. We welcome feedback and suggestions relating to the Semtech Platform. If you or an Authorized User chooses to provide us with any feedback or suggestions, you irrevocably assign to Semtech any and all rights, title, and interest (including all intellectual property rights relating thereto) in any and all such feedback and suggestions, and we will be entitled to use them in any manner without restriction, and without any obligation of confidentiality, attribution or compensation.
- 3.7 Device Software. You may be required to install software on your Devices (or update the software already installed on your Devices) to utilize certain features of the Semtech Platform. We may make this Device software available to you through the Semtech Platform or otherwise. Your rights to this Device software are limited to a non-exclusive right to install and execute this software on your Devices to support your use of the Devices and the Semtech Platform. You are responsible for (a) configuring the software in accordance with industry best practices and any instructions or bulletins we provide, and (b) promptly installing any security updates that we may make available. We will not be responsible for any loss of security caused or contributed to by your failure to properly configure the software or install software security updates.
- 3.8 Third Party Services. Some areas of the Semtech Platform may utilize Google Maps/Earth mapping services, including Google Maps API(s). Your use of Google Maps/Earth is subject to the [Google Maps/Google Earth Additional Terms of Service](#) (including the [Google Privacy Policy](#)).

4. Term & Termination, Suspension

- 4.1 Term. The term of a Device Subscription will be specified in the applicable order. If no term is specified, the Device Subscription is for a term of 12 months from the date the order is accepted (or if the Device Subscription is a renewal of an existing Device Subscription, 12 months from the date the existing Device Subscription expires). The Semtech Platform may track Device Subscriptions by applying “tokens” to a Customer Account, where one token represents a one-month standard Device Subscription.
- 4.2 Termination. You may terminate a Device Subscription at any time by deregistering the Device from the Semtech Platform. We may terminate your rights to access and use the Semtech Platform and any or all Subscriptions if you materially breach these Terms and fail to cure the breach within 30 days of receiving written notice from us.
- 4.3 Renewal. Unless otherwise specified in the order, Device Subscriptions do not automatically renew, and you will be required to place an order if you wish to renew a Device Subscription. We are not required to accept renewals or orders for new Device Subscriptions. If you renew a Device Subscription, these Terms will apply to the renewal, unless you accept different terms at the time of renewal. A Device Subscription is required for every Device registered in the Semtech Platform, so you will be required to deregister any Devices that no longer require Device Subscriptions. Renewals must be contiguous to the prior term.

- 4.4 Bundled Device Subscriptions. If a Device Subscription is included as part of a Bundle, then sections 4.1 to 4.3 do not apply to the Device Subscription, and the term, termination and renewal terms applicable to the Bundle will apply to any Device Subscriptions included in the Bundle.
- 4.5 Effect of Termination. If a Device Subscription expires or is terminated for any reason we may deregister the Device from the Semtech Platform and delete any of Your Data associated with that Device. Device Subscription fees will not be refunded if a Device Subscription is terminated prior to the end of the Device Subscription term. If all Device Subscriptions have expired or been terminated, we may delete the Customer Account, all User Accounts and Your Data.
- 4.6 Suspension. We may suspend your access to the Semtech Platform (in whole or in part) if you violate these Terms or have not paid the applicable fees. We may also suspend if we are required to do so by applicable law, if we detect usage of the Semtech Platform that we reasonably believe to be fraudulent or excessive, or if your usage of the Semtech Platform is disrupting other users, our network, or the network of our third-party providers. Once we have confirmed that the reason for a suspension has been fully addressed, we will reinstate your access to the Semtech Platform. No refunds or credits will be issued for any period during which the Semtech Platform was unavailable due to a suspension.

5. Limitation of Liability

- 5.1 Warranties. THE REPRESENTATIONS AND WARRANTIES SET OUT IN THESE TERMS ARE OUR EXCLUSIVE REPRESENTATIONS AND WARRANTIES IN CONNECTION WITH THE SEMTECH PLATFORM. EXCEPT FOR SUCH REPRESENTATIONS AND WARRANTIES, THE SEMTECH PLATFORM IS PROVIDED ON AN "AS IS" BASIS. WE SPECIFICALLY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, (B) THAT THE SEMTECH PLATFORM WILL BE PROVIDED ON AN UNINTERRUPTED OR ERROR-FREE BASIS; (C) THAT THE SEMTECH PLATFORM IS SECURE; OR (D) THAT THE SEMTECH PLATFORM IS SUITABLE FOR USE IN SAFETY CRITICAL ENVIRONMENTS. FOR CLARITY, NOTHING CONTAINED ON THE SEMTECH PLATFORM OR ON ANY SEMTECH WEBSITE, MARKETING MATERIALS OR TECHNICAL DOCUMENTATION CONSTITUTES A REPRESENTATION OR WARRANTY WITH RESPECT TO THE SEMTECH PLATFORM.
- 5.2 Limitation. OUR AGGREGATE LIABILITY IN CONTRACT, TORT (INCLUDING THEORIES OF NEGLIGENCE, RECKLESSNESS, STRICT LIABILITY, DEFECTIVE PRODUCT LIABILITY OR BREACH OF STATUTORY DUTY), MISREPRESENTATION OR OTHERWISE ARISING IN CONNECTION WITH THE SEMTECH PLATFORM OR THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS SHALL BE LIMITED TO DIRECT DAMAGES UP TO THE AGGREGATE AMOUNT OF THE FEES PAID FOR SUBSCRIPTIONS IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE LIABILITY AROSE.
- 5.3 Disclaimer. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THE SEMTECH PLATFORM OR THE PERFORMANCE OR NON-PERFORMANCE OF THESE TERMS, NOR FOR ANY LOSS OF PROFITS OR REVENUES, LOST OR COMPROMISED DATA, FAILURE TO REALIZE EXPECTED SAVINGS, INTERRUPTION OR LOSS OF USE OF THE SEMTECH PLATFORM, NOR FOR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES OF ANY KIND, IN EACH CASE WHETHER BASED IN CONTRACT, TORT (INCLUDING THEORIES OF NEGLIGENCE, RECKLESSNESS, STRICT LIABILITY, DEFECTIVE PRODUCT LIABILITY OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY WERE REASONABLY FORESEEABLE.

- 5.4 Exceptions. The limitations in sections 5.2 and 5.3 apply to the fullest extent permitted by applicable law, but do not apply to (a) either party's gross negligence, fraud or willful misconduct, (b) either party's violation of the other party's intellectual property rights, (c) our obligations under section 3.2, (d) your obligation to pay fees that are validly charged, (e) death or personal injury, or (f) matters which cannot be excluded or limited as a matter of applicable law.
- 5.5 Indemnification. To the extent allowed by applicable law, you will indemnify, defend, and hold harmless Semtech, its officers, directors, employees, and contractors from any and all claims, liabilities, damages, and expenses, including reasonably attorneys' fees, arising out of or in connection with any unlawful use of the Semtech Platform or violation of these Terms.
- 6. Miscellaneous**
- 6.1 Modifications. We may make changes from time-to-time to maintain and improve the Semtech Platform. This includes (a) updating the Semtech Platform, including adding or removing features; (b) disabling or deleting inactive User Accounts and Customer Accounts; and (c) deregistering inactive Devices from the Semtech Platform. Some of these activities may temporarily or permanently affect your ability to use the Semtech Platform.
- 6.2 Force Majeure. We will not be responsible for any delay or failure to perform our obligations caused by circumstances beyond our reasonable control, including (a) acts of God, acts of government, flood, fire, earthquakes, epidemics, pandemics, civil unrest, acts of terror, shortage of materials, strikes or other labor problems (other than those with our own employees), (b) failures or delays involving utilities, computers, telecommunications networks, Internet service providers or hosting facilities not within our possession or reasonable control, or (c) sabotage or other malicious conduct of third parties.
- 6.3 Notices.
- (a) Notices to You. We may send notices to you at the email address we have on record for you in the Semtech Platform. Any notices we send to you will be deemed given when we send them. You are responsible for ensuring that the email address in the Semtech Platform remains up to date. We may also from time-to-time post notices in the Semtech Platform.
- (b) Notices to Us. If you need to send us any formal notices you must send them to the following address: Semtech Corporation, 200 Flynn Road Camarillo, CA 93012, Attention: Legal Department, with a copy to legal@Semtech.com. You must send notices by first class mail or by courier, and notices will be deemed given when we receive them.
- 6.4 Assignment and Transfer. You may not assign these Terms or any of your rights or delegate any of your obligations without our written consent. We may assign these Terms if we provide notice to you. We may also assign these Terms or any of our rights or obligations to one of our affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets relating to the Semtech Platform, without providing notice. Any purported assignment in contravention of the foregoing will be void. Device Subscriptions are associated with a specific Device and cannot be transferred to another Device without our consent.
- 6.5 Severability. Any provision of these Terms which is, or deemed to be, unenforceable in any jurisdiction shall be severable from these Terms in that jurisdiction without in any way invalidating the remaining provisions of these Terms, and that unenforceability shall not make that provision unenforceable in any other jurisdiction.
- 6.6 Relationship. The relationship between the parties created by these Terms is that of independent contractors and not partners, joint venturers or agents. There are no third-party beneficiaries to these Terms.

- 6.7 Modification. We may revise these Terms from time-to-time, and the most current version will always be posted on our website or in the Semtech Platform, which you should check regularly. If a revision is material (in our discretion) we will provide at least 30 days' notice to you in the manner contemplated by section 6.3 above. By continuing to use the Semtech Platform after the revisions become effective, you agree to be bound by the revised Terms. If you do not agree to the revised Terms, you may terminate your Subscription in accordance with section 4.2.
- 6.8 Waiver. Failure to enforce any of these Terms will not constitute a waiver.
- 6.9 Governing Law and Dispute Resolution – Government Entities. If you are a Governmental Entity, these Terms will be governed by the laws of the state or province in which you are constituted, and the parties submit to the non-exclusive jurisdiction of the federal, state or provincial courts in such state or province to resolve any dispute relating to these Terms. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY. This section 6.9 does not apply unless you are a Government Entity. "Government Entity" means a United States or Canadian federal, state, provincial or local government, or any agency or entity exercising any executive, legislative, judicial, administrative or regulatory functions of such a government.
- 6.10 Governing Law and Dispute Resolution – Other Entities. Unless you are a Government Entity, all claims or disputes arising under or in connection with these Terms, including the formation, interpretation, breach or termination thereof, or arising in connection with the Semtech Platform, shall be governed by the laws of the State of New York, U.S.A. and submitted to arbitration conducted by JAMS in New York, New York in accordance with JAMS rules of arbitration, except as follows: (a) if you are incorporated within the regions of Europe, Middle East or Africa, the laws of France shall govern and arbitration shall be conducted in Paris, France by the International Court of Arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce; and (b) if you are incorporated within the Asia region, Australia or New Zealand, the laws of Singapore shall govern and arbitration shall be conducted in Singapore by the Singapore International Arbitration Centre (SIAC) in accordance with the Arbitration Rules of the SIAC; in each case without regard to the conflict of law provisions of such jurisdiction. The arbitration shall be binding and conducted in English before a single arbitrator appointed in accordance with the applicable rules. Judgment on the award may be entered in any court having jurisdiction. THE PARTIES EXPRESSLY WAIVE ANY RIGHTS TO HAVE DISPUTES ADJUDICATED IN COURT, AND WAIVE THEIR RIGHTS TO TRIAL BY JURY.
- 6.11 Interpretation. Headings have been inserted for convenience of reference only and will not affect the construction of these Terms. Any reference to "including" means "including without limitation". Any references to dollars or the use of the dollar sign (\$) is a reference to United States dollars, unless expressly indicated otherwise.
- 6.12 Entire Agreement. These Terms state the entire understanding between us with respect to the Semtech Platform and supersede all prior proposals, marketing materials, negotiations and other written or oral communications between the parties with respect to the Semtech Platform. Notwithstanding any language to the contrary therein no terms or conditions that you include or reference on any purchase order or any of your other order documentation will be incorporated into or form any part of these Terms, and all such terms or conditions will be null and void.