

Datto Networking Product Terms of Use

Updated as of April 1, 2023

These Networking Product and Services Terms of Use ("**Networking Terms**") govern your use of Datto's Networking Products and Services (defined below) ("**Networking Products**" or "**Products**"). By purchasing or using Datto's Networking Products and Services, you agree to be bound by these Networking Terms, which are incorporated into the [Kaseya Master Agreement](#) (the "**Agreement**") between you and Kaseya Holdings Inc., as well as Kaseya's subsidiaries and affiliates, including Datto, Inc. ("**Datto**"). Capitalized terms not defined in these Terms of Use have the meaning given to them in the Agreement.

If you do not agree to these Networking Terms, you may not register, access or use any Networking Product.

1. USE OF NETWORKING PRODUCT

a. Right to Use. A Networking Product consists of a Networking Device deployed on a Network and/or Network Services (including cloud-based Networking Products) that are made available through the Networking Device and/or a Network Management Portal. Networking Products may be registered only in a Datto Network Management Portal. Subject to your compliance with these Networking Terms and the receipt by us of all fees applicable to the Product, Datto grants you a limited, revocable, non-sublicensable, non-exclusive right and license to access and use the Product on one Network in accordance with the Product Specifications. To the extent the term of any Service Subscription is terminated for any reason, the right and license to access and use the Product shall expire and Datto shall have no further obligation to maintain the Product.

b. Failover Mode Limitations. If a Product includes Failover Mode capability, Failover Mode may be used only for a limited testing period and for the internal business operations of the End User during a period of documented primary internet outage affecting the Network on which the Networking Product with Failover Mode capability is deployed. Except with our express consent, Failover Mode may not be used for any other situation nor may it be used in a manner that (i) adversely impacts Datto or the underlying wireless service provider; (ii) results in excessive bandwidth usage; (iii) is for the benefit of any public or third party access to wireless service; or (iv) involves the use of non-authorized equipment.

c. Additional Data Processing Terms. Certain Products may be used only in designated geographic regions and you represent and warrant that you will not use or in any way facilitate the use of such Products outside their designated geographic regions. [The European Data Processing Addendum](#) is incorporated into these Terms of Use If a Networking Device is in use in the European Economic Area or the United Kingdom.

d. Third Party Technology/Services. Certain Products may provide access to third party technology/ services, the use of which is subject to such third parties' terms. By using any Product with such capability, you expressly agree to all applicable Third Party Networking Terms.

e. Use of Network Data. We store and make available to you for a limited period through the Network Management Portal certain Network Data to allow you to monitor Network use and performance. We reserve the right to delete all such data after a period of 30 days. We reserve the right to store such data in the United States or such other datacenter as determined by us.

f. End User Terms. If you resell to an End User, act as a Product Administrator for an End User or if you authorize an End User to directly use or support a Product, you must ensure that the End User for each Product agrees to the End User Terms in substantially the form attached as Exhibit A hereto as part of a valid, enforceable contract between you and the End User. Certain Products may require that the End User install Agent Software on an endpoint, which may have its own licensing requirements that must be accepted prior to installation.

g. Restrictions on Cellular Wireless Service.

i. Any i) fraudulent use; or ii) use of the cellular wireless service and/or mobile telephone number embedded in the Product other than as part of the Product in compliance with the Product Terms of Use, is strictly prohibited. Cellular wireless services may not be resold separately from the Networking Products.

ii. The Product may not be deployed in any area that requires continuous roaming access to wireless service.

iii. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING CELLULAR WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT YOU ARE NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN DATTO. AND THE UNDERLYING CARRIER. IN ADDITION, YOU ACKNOWLEDGE AND AGREE THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU AND YOU HEREBY WAIVE ANY AND ALL CLAIMS AND DEMANDS THEREFOR.

iv. Datto may be required to indemnify and hold harmless the underlying carrier supplying wireless services, and its officers, employees, and agents against any and all claims, including without limitation claims for libel, slander, infringement of copyright, or personal injury or death, arising in any way directly or indirectly in connection with the agreement for such services (even after termination of such agreement) or the use, failure to use, or inability to use the access telephone number. If Datto's obligation in any such instance arises from your actions or inactions, you agree that you will in turn fully indemnify and hold harmless Datto.

2. REMOTE MONITORING AND MANAGEMENT.

a. Use of Network Management Portal. Your use of the Product includes access to and use of the Network Management Portal hosted by us through which a Product is managed. You are responsible for all activities that occur in your Network Management Portal account ("**Account**"), regardless of whether the activities are undertaken by you, or by others on your behalf (including any administrative users and/or any End User you authorize). Your Account may be hosted in the U.S. regardless of where you, any Networking Device or Network may be located.

b. Your Responsibilities. You are responsible for proper installation of the Product on a Network with a full time primary internet service. You are responsible for the proper configuration and maintenance of physical, administrative and technical safeguards as they relate to use of the Product. In no event will we be responsible, nor will we have any liability, for physical, administrative, or technical controls related to the Product that you control, including but not limited to Networking Device access, network security, power backup, Network connectivity, internet connectivity and primary internet service.

3. SERVICE SUBSCRIPTIONS

a. Service Subscription Required. To maintain managed Networking Services, each Networking Product must be registered in a Datto Network Management Portal and enrolled in a Service Subscription for which we receive timely payments. All Service Subscriptions include licenses to the technology needed to perform and manage networking functions as well as access to Datto Technical Support.

b. Registration. You are required to register each Product with us in order to use the Products and Services. During registration, you agree to provide accurate and complete information, and you further agree to promptly update this information should it change. If a Product is not properly registered in a current paid Service Subscription we have no obligation to allow access to or use of the Product, nor to provide any related Services.

c. Term Length.

i. The term of a Service Subscription is indicated on the applicable accepted Quote. A term is for a defined number of consecutive months (a Committed Service Term). Certain Products and/or hardware discounts may be available only when purchased with a Committed Service Term.

ii. Billing for a Service Subscription shall commence on the "**Activation Date**" (or "Effective Date") as set forth on the applicable accepted Quote.

d. Renewals of Subscriptions. For purchases made after January 10, 2023, Service Subscription will automatically renew for additional Committed Service Terms equal in length to the expiring Committed Service Term unless either party provides the other with written notice of cancellation. For purchases made on or before January 10, 2023, Service Subscriptions will automatically renew on a month-to-month basis unless terminated by your providing Datto with written notice of cancellation. For a Monthly Term, notice of cancellation must be received by Datto no later than fifteen (15) calendar days prior to the effective month of cancellation. For a Committed Term, notice of cancellation must be received by Datto no later than thirty (30) calendar days prior to the end of the relevant Committed Service Term.

4. PAYMENT TERMS

a. Service Subscription Fees. Monthly Service Subscription fees are set forth in the applicable order. Service Subscription fees will be due and payable commencing on the first day of the month following the Activation Date (defined above), and are billed monthly in advance on

the first day of the month. In the first month following the Activation Date, an additional bill will be generated covering the period from the Activation Date through the end of that month.

b. **Payment Dates.** Monthly payments for a Service Subscription is due on the **third** business day of each month by your payment method indicated in your Partner Portal account.

c. **Prepaid Subscriptions.** You may also choose to prepay a Service Subscription. In the event of termination of a prepaid Service Subscription, no refund for unused Service will be given unless otherwise agreed in writing.

d. **Payments Based on Consumption.** Certain Networking Products are paid for on a consumption basis, and if you exceed consumption limitations, you may experience reduced performance or increased charges, depending on your Service Subscription.

e. **Termination.** Datto may terminate any Service Subscription at its discretion, effective immediately, for non-payment that is not substantially cured within thirty (30) days after your receipt of written notice.

5. WARRANTY

a. **Standard Limited Hardware Warranty for New Datto Networking Hardware.** New Networking hardware Devices and equipment are warranted against defects in materials and workmanship under normal use, handling and installation for the warranty period in the chart below from the date the Networking hardware is linked to your account (which approximates the shipping date), regardless of the date of actual registration/activation. With respect to any new Datto Networking hardware covered by this warranty ("Standard Limited Hardware Warranty") that is found by Datto to be defective during the warranty period, Datto's obligations under this Standard Limited Hardware Warranty, at Datto's option, are limited to either: (i) repairing the Networking hardware using new or refurbished parts that are equivalent to new in performance and reliability; (ii) replacing the Networking hardware with one that is new or formed from new and/or refurbished parts that are equivalent to new in performance and reliability; or (iii) issuing a credit for the Networking hardware. To be eligible for warranty service, a Networking Device must have been continuously enrolled from the Activation Date and have an active Service Subscription for which payment is current. This Standard Limited Hardware Warranty does not extend to software included with Networking hardware nor to any other hardware or software on the network on which the Datto Networking hardware is in use. All warranty claims must be received by Datto within the applicable warranty period.

b. **Exclusions from Warranty.** This Standard Limited Hardware Warranty does not cover Networking hardware that has defects or failures resulting from 1) accident, neglect or abuse; 2) improper installation or maintenance; or 3) modifications, repairs, improvements, or other changes to any software or hardware component that have not been authorized in writing by Datto. You are responsible for any costs incurred by Datto related to the foregoing exclusions.

c. **Warranty on Repair/Replacement Hardware.** Hardware that has been repaired or is a replacement will continue to be under warranty for a period equal to the greater of (i) the balance of the existing warranty period for the original hardware; or (ii) sixty (60) days.

d. Warranty Periods

Networking Hardware Type	Standard Warranty Period
Wireless Access Points	Lifetime*
Switches	Lifetime*
Managed Power Devices	Lifetime*
Datto Networking Appliance (DNA)	3 Years
D200 Edge Router	Lifetime*
Datto Networking Hardware Accessories (PoE Injectors, SFP Fiber Transceivers, etc.)	1 Year
Secure Edge DSE421	3 Years

*Lifetime is measured by the commercially useful life of the Networking hardware (not to exceed 10 years from the date Datto no longer sells the product). For any warranty claim made more than 18 months from the date the Networking hardware is linked to your account, the Networking device must have been enrolled in a paid Networking Service Subscription for a minimum of 6 months immediately prior to the warranty claim. Warranty replacements, if offered, may be newer model devices with the same capabilities.

e. **Limit on Warranty.** THIS WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY DATTO AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, EACH OF WHICH IS HEREBY EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

f. **RMA Numbers for Warranty Returns.** All warranty returns must be authorized by us with a valid RMA number issued by our Technical Support team. If a warranty return is authorized, please follow the Product Return Guidelines.

6. DEFINITIONS

"Administrator" means (i) a Network Owner that controls, manages, uses and/or supports a Product for its own internal use; or (ii) a third party person or entity, other than Datto, authorized by a Network Owner to control, manage and/or use a Product for that Network Owner. A Product may have multiple Administrators and Datto expressly may rely on the authorization and

instructions of any Product Administrator that agrees to these Terms of Use, until Datto receives written instructions to the contrary.

"Failover Mode" means continued use of certain Products through means of LTE or other cellular wireless internet service in the event of primary internet failure affecting the Network on which such a Networking Device with Failover Mode is deployed.

"Network" means a private connection of one or more LANs, connected to the internet through a primary ISP, belonging to and intended to be accessible only by a single organization/entity or its authorized users and not for multi-tenant or public use.

"Network Data" means information about traffic on the Network on which a Networking Device is deployed, devices on the Network, and information transmitted by devices attempting to access or download data via the Network.

"Networking Device" means any Datto networking hardware device.

"Network Owner" means the End-User that owns, licenses, or lawfully controls the Network on which a Networking Device is deployed.

"Network Management Portal" means a remote web-based software platform provided by Datto through which configuration, management, monitoring, support and use of the Products is made available.

"Network Services" means all services provided by or on behalf of Datto that are part of or comprise any Product, including without limitation, wireless access, data routing, security and/or switching on a network, configuration, maintenance, monitoring, and support of Networking Products, failover protection for certain Products in the event of primary internet failure, technical support, training, or other features and functionalities as they become available. Network Services may be provided through any of the following, or any combination of the following, or any later developed or implemented, means: (i) the use of a Networking Product owned by or under the control of a Network Owner or a third party Administrator; (ii) the use of the Network Management Portal.

Exhibit A - End User Terms For Datto Networking Products

These End User Terms ("Terms") apply to you as the End User that is the owner of the computer network ("Network") on which one or more of Datto's networking products ("Product") will be used. The Products are provided by Datto, Inc. or one of its subsidiaries or affiliates ("Datto") to the reseller/managed service provider ("Administrator") who will (a) manage the Products on your behalf, and for the benefit of your Personnel; and who may also (b) authorize you to access, use or manage the Product yourself, either through the network management portal or Product interface, in which case you will be considered an additional authorized administrator of the Product.

RIGHTS TO THE PRODUCT. You acknowledge that Datto is the owner of all intellectual property rights in and to the Product. You will not engage in or authorize any activity that is inconsistent with Datto's ownership.

USE REQUIREMENTS.

Certain Products may only be used in the designated geographic areas. You agree not to take any action that would result in use outside of the Product's designated geographic area. Unless otherwise authorized by Datto, the Product may only be used on a Network having primary internet service through an Internet Service Provider other than through the Product. The Products may be managed only through the appropriate Datto Networking management portal.

ADMINISTRATOR

Datto will interact with the Administrator you appoint to operate and manage the Product on your Network. You are not a third party beneficiary of any agreement between Datto and an Administrator. An Administrator is not an agent of Datto and is not authorized to make any representations or warranties on behalf of Datto regarding the Product or its use. You are responsible for instructing and authorizing the Administrator with respect to use and management of the Product including Product or network settings, transition of Product or Networks to a different Administrator, and transition assistance and cooperation upon termination or expiration of any relationship between or among Administrator, you and/or Datto. You expressly agree that Datto may rely on the instructions and authorization of the Administrator with respect to use and support of the Product and access and control of your Network.

YOUR DIRECT USE OF A PRODUCT. If the Administrator authorizes you to access or use a Product directly, though the network management portal or Product, you are responsible for all actions you and your Personnel take with respect to use of the Product and Datto may rely on your instructions. Any support you may need is provided by the Administrator and not directly from Datto.

DATTO'S RIGHTS. If Datto reasonably believes the use of any Product on your Network (i) results in any violation of the Product's Terms of Use; (ii) may disrupt or threaten the operation or security of any computer, network, system or the Product; or (iii) may otherwise subject Datto to liability, Datto reserves the right to refuse or disable access to the Product. Datto will use reasonable efforts to contact the Administrator prior to taking such action. Notwithstanding the foregoing, Datto may restrict access to any Product without prior notice as required to comply with law or any judicial, regulatory or other governmental order or request. In the event Datto takes any such action without prior notice, Datto will provide notice to the Administrator within a reasonable time, unless prohibited by law. Datto may make changes to its Products through updates and upgrades that offer new features, functionality and efficiencies ("Enhancements"). Datto reserves the right to add new Products and Enhancements and to replace or discontinue Products or Enhancements at any time. You agree that Datto may and you hereby authorize Datto to interact remotely with any deployed Product in order to test, troubleshoot, update or analyze use of the Product or the environment in which it operates.

USE OF AGGREGATE DATA. Datto may evaluate and process use of any Product in an aggregate and anonymous manner, meaning in such a way that the individual is not or no longer identified or identifiable and compile statistical and performance information related thereto (referred to as "Aggregate Data"). Datto may use, process and share with third parties such Aggregate Data to improve the Product, develop new products, understand and/or analyze usage, demand, and general industry trends, develop and publish white papers, reports, and databases summarizing the foregoing, and generally for any purpose related to Datto's business. Datto retains all intellectual property rights in Aggregate Data. Aggregate Data does not include any personally identifiable information.

DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY. The Products are provided "AS IS". TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DATTO DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION, DATA ACCURACY, DATA SECURITY, QUIET ENJOYMENT, TITLE, AND/OR NON-INFRINGEMENT OR ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. DATTO DOES NOT WARRANT THAT THE PRODUCT WILL MEET ANY SPECIFIC REQUIREMENTS OR THAT THE OPERATION OF ANY PRODUCT WILL BE SECURE, UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. THE PRODUCTS MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER RISKS INHERENT IN THE USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS AND WIRELESS SERVICE AVAILABILITY. DATTO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT WILL DATTO OR ANY DATTO LICENSOR OR SUPPLIER BE LIABLE TO YOU OR TO ANY THIRD PARTIES FOR ANY DIRECT OR INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR COSTS, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, COSTS OF DELAY, FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR THE COST OF RECREATING THE SAME, EVEN IF DATTO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL DATTO BE LIABLE FOR THE PROCUREMENT OF SUBSTITUTE SERVICES OR PRODUCTS.

FAILOVER MODE CAPABILITY

If the Product in use on your Network includes Failover Mode Capability, the following terms and limitations (including those set forth below required by the wireless service provider) will apply to such use. Failover Mode may be used only during a period of documented primary internet outage affecting the Network on which the Product is authorized for use. Failover Mode may not be used in any other situation nor may it be used in a manner that (i) adversely impacts Datto or the underlying wireless service provider; (ii) results in excessive bandwidth usage; (iii) is for the benefit of any public or third party access to wireless service; or (iv) involves the use of non-authorized equipment.

WIRELESS SERVICE PROVIDER TERMS.

Any fraudulent use or any use of the wireless service and/or mobile telephone number embedded in the Product other than as part of the Product in compliance with the Product Terms of Use is strictly prohibited. The Product may not be deployed in any area that requires continuous roaming access. Any use of the Product for Remote Medical Monitoring is prohibited. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOU HAVE NO CONTRACTUAL RELATIONSHIP WHATSOEVER WITH THE UNDERLYING WIRELESS SERVICE PROVIDER OR ITS AFFILIATES OR CONTRACTORS AND THAT YOU ARE NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN DATTO, INC. AND THE UNDERLYING CARRIER. IN ADDITION YOU ACKNOWLEDGE AND AGREE THAT THE UNDERLYING CARRIER AND ITS AFFILIATES AND CONTRACTORS SHALL HAVE NO LEGAL, EQUITABLE, OR OTHER LIABILITY OF ANY KIND TO YOU AND YOU HEREBY WAIVE ANY AND ALL CLAIMS AND DEMANDS THEREFOR.