

SERVICE DELIVERY PLAN/PROFESSIONAL SERVICES TERMS (July 7, 2020)

The following terms apply to the Service Delivery Plan and Professional Services delivered by Gigamon to Customer under such Service Delivery Plan.

- 1. Professional Services.** Professional Services will commence on a mutually agreed date as set forth in the Service Delivery Plan. Professional Services are performed on a time-and-material basis, and time periods are estimates only and are not a guaranteed time of completion. Professional Services are performed during normal business hours (8am – 5pm) and one workday is 8 hours. Unless otherwise agreed in writing, Professional Services must be used by Customer within six (6) months of the order date, and if not so used, no refunds are permitted, and no unused hours will be rolled over or credited to Customer. Customer may reschedule Professional Services once without penalty prior to the start date upon written notice to Gigamon at least fifteen (15) days in advance of the estimated start date of the Professional Services. If Customer desires to reschedule in less than fifteen days of the estimated Professional Services start date, such rescheduling is subject to Gigamon’s reasonable approval and may be subject to a reasonable rescheduling fee. Gigamon may cancel or reschedule Professional Services upon written notice to Customer, provided that if Gigamon cancels Professional Services, Customer will receive a refund if payment was prepaid, or Customer and Gigamon may reschedule for a later available date without penalty. Gigamon will not be responsible for any loss incurred by Customer as a result of a cancellation or reschedule. If Gigamon uses any contractors to provide Professional Services, Gigamon shall be responsible for their actions or inactions. Gigamon employees and contractors (“**Gigamon Personnel**”) will comply with Customer’s workplace safety rules and policies provided to Gigamon in writing and in advance during the provision of on premise Professional Services. Gigamon may replace or substitute Gigamon Personnel at its reasonable discretion.
- 2. Customer Assistance.** Customer shall provide access to all reasonable information, support, approvals and resources needed by Gigamon in a timely fashion in order to perform the Professional Services, including if applicable: network and switching designs of current and proposed deployment; a lead project coordinator (name set forth in the above Service Delivery Plan) and prompt cooperation from other Customer personnel (technical, security, network, systems administrators) as needed; completed installation of Products in advance of commencement of Professional Services, such that all hardware Products have been racked, stacked, cabled, powered and networked; access to premises during normal business hours and adequate workspace, telephone and internet access and a safe working environment; completed configuration, modifications and services for all third party equipment; information regarding application and user requirements; network architecture designs. Due to the evolving circumstances relating to the COVID-19 pandemic, Gigamon must be permitted to and be able to take into consideration applicable laws and regulations in performing Professional Services, including those relating to health, safety, and mobility (whether in the location of service delivery and/or the location of Gigamon Personnel). If the provision of any onsite Professional Services is negatively impacted due to circumstances related to the COVID-19 pandemic, Customer agrees to cooperate with Gigamon in good faith to review the impact of such circumstances, and, as necessary, amend any Service Delivery Plan, and any other specifications, criteria, or schedules for the performance of Professional Services, including the provision of appropriate infrastructure (e.g., VPN) to enable remote delivery of Professional Services. For the avoidance of doubt, the provisions set forth herein are without prejudice to the parties’ rights and obligations under the force majeure clause of any applicable agreement.
- 3. Warranty; Limit of Liability.** Gigamon represents and warrants that the Professional Services will be performed in a professional and workmanlike manner consistent with industry standards. Customer must notify Gigamon of any warranty claim within 30 days after the earlier of the receipt of the applicable invoice or completion of the applicable Professional Services. Customer’s sole and exclusive remedy and the entire liability of Gigamon for its breach of this warranty will be for Gigamon, at its option and expense to (a) use commercially reasonable efforts to re-perform the non-conforming Professional Services or (b) refund the portion of the fees paid attributable to the non-conforming Professional Services. Except as expressly stated in this Agreement, all Professional Services and are furnished on an “AS-IS” basis, without warranty of any kind, whether express, implied, statutory or otherwise. Customer bears all responsibility for any malfunction or damage to Products caused by Customer’s installation or non-Gigamon branded products. Gigamon has no obligation to provide Professional Services for third party hardware, software or applications. GIGAMON DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ALL IMPLIED WARRANTIES OF CONDITION, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, (I) NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY IN CONNECTION WITH THIS AGREEMENT OR THE SUBJECT MATTER HEREOF UNDER ANY THEORY OF LIABILITY FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, AND (II) NEITHER

PARTY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL EXCEED THE AMOUNT RECEIVED OR PAYABLE TO GIGAMON FOR THE SERVICES AT ISSUE.

- Miscellaneous.** This Service Delivery Plan and the applicable order for Professional Services (along with the Gigamon Terms and Conditions set forth at <https://www.gigamon.com/content/dam/resource-library/english/user---support-documentation/gigamon-terms-and-conditions.pdf>, which are incorporated by reference herein and govern Customer's use of the Products), constitute the entire agreement between the parties with respect to the Professional Services provided hereunder and supersede all prior proposals and communications, both written and oral, between the parties. No modification to the Agreement will be binding unless it is in writing and signed by an authorized representative of each party. These terms prevail over any terms or conditions contained in any other documents related to the subject matter of this Agreement and expressly exclude general terms contained in any purchase order or other document issued by either party and not incorporated herein. Gigamon may suspend Professional Services immediately upon Customer's failure to make payment in accordance with this Agreement and the relevant order.