



TIERED-VOLUME LICENSE SUPPLEMENTAL TERMS TO THE GIGAMON TERMS AND CONDITIONS

These Supplemental Terms (the “**Supplement**”) for the use of any Gigamon Products provided on a Tiered Volume License basis contains terms and conditions for the use of such Products that are in addition to 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> or in a separately executed agreement between the Customer and Gigamon (in either case, the “**Agreement**”). This Supplement is hereby incorporated by reference into the Agreement. Capitalized terms used herein and not defined shall have the meanings assigned to them in the Agreement.

RECITALS

WHEREAS, Gigamon offers certain of its Software Products on a Tiered-Volume License basis to enable customers to monitor network traffic in their public and private cloud environments.

WHEREAS, if a Software Product is provided on a Tiered-Volume License basis, Customer’s use of such Product is subject to the terms and conditions set forth in the Agreement and the additional terms and conditions set forth in this Supplement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. **Additional Definitions.**

- 1.1. **“95th Percentile Utilization”** is a method to determine whether Customer has exceeded its Daily Data Limit over a given period. It is calculated for each three month period as follows: the Daily Data ingested by all instances of the Customer’s Tiered-Volume License Product that are managed by the same instance of GigaVUE-FM Fabric Manager will be sorted from highest to lowest for each day in such period and the top 5% of such Daily Data entries will be discarded. If the next highest Daily Data entry (the 95th percentile) is greater than the contracted Daily Data Limit, Customer has exceeded its Daily Data Limit for such period.
- 1.2. **“Daily Data”** means the quantity of data, expressed in PetaBytes (“**PB**”) or Terabytes (“**TB**”), that is ingested each day by all of Customer’s instances of the applicable Tiered-Volume Licensed Product that are managed by the same instance of GigaVUE-FM Fabric Manager.
- 1.3. **“Daily Data Limit”** means the maximum quantity of data, expressed in PB or TB, for which Customer has paid to be monitored each day by all of Customer’s instances of the Tiered-Volume License Product that are managed by the same instance of GigaVUE-FM Fabric Manager.
- 1.4. **“Subscription Period”** means a period of one (1) year from the Order date unless a different duration is set forth in the applicable Order.
- 1.5. **“Tiered-Volume License”** means the right to use multiple instances of the Product to monitor up to the Daily Data Limit identified on the Order for such Product, provided all instances of the Product are managed by the same instance of GigaVUE-FM Fabric Manager.



2. Supplemental Terms.

2.1. Product License. Upon purchase of a subscription for a Product on a Tiered-Volume License basis, Customer shall receive a Term License to use, and the right to receive Support for, such Product for the duration of the Subscription Period. Subject to the limitations in Section 2.2, Customer may copy, deploy and use an unlimited number of copies of Tiered-Volume License Software solely for Customer's Internal Use during the Subscription Period. Tiered-Volume Licenses are non-cancellable and non-refundable for the duration of the Subscription Period.

2.2. Daily Data Limit. The maximum quantity of Daily Data that the Customer is permitted to monitor across all copies of the Tiered-Volume Licensed Product without incurring additional charges is limited to the Daily Data Limit. After a Subscription Period begins, Customer may increase the Daily Data Limit at any time by purchasing the right to monitor additional Daily Data for the remainder of the Subscription Period. The initial Daily Data Limit purchased by Customer and any increases in the Daily Data Limit purchased pursuant to the preceding sentence or pursuant to Sections 2.4 ("Quarterly True-Forward") or 2.5 ("Monthly True-Forward") are non-cancellable, non-refundable, and may not be reduced for the remainder of the Subscription Period. The fees paid for the initial or any increased Daily Data Limit are not creditable against any future fees.

2.3. Usage Reports. Customer agrees to generate a report each month (with a "month" defined as each monthly anniversary of the applicable Order date) using Gigamon's GigaVUE-FM Fabric Manager console that discloses the quantity of Daily Data monitored each day in the prior three (3) month period (the "**Usage Report**"). Usage Reports will be emailed to Gigamon at vbl-reports@gigamon.com at the end of each such month. The Usage Report will also include the Customer's name, the three (3) month period covered by the report, the 95th Percentile Utilization over such three (3) month period, and the Daily Data usage for each day in such period.

2.4. Quarterly True-Forward. If Daily Data use exceeds the Daily Data Limit, as calculated using the 95th Percentile Utilization method, over the course of any rolling three (3) month period, then Gigamon, directly or through its Authorized Channel Partner, shall invoice Customer (and Customer shall pay) for the higher tier Daily Data Limit plan at an increment sufficient to cover the excess usage for the balance of the Subscription Period (a "**Quarterly True-Forward**").

2.5. Monthly True-Forward. Notwithstanding the terms of Section 2.4, if the Daily Data Limit for any single day in a month has been exceeded by fifty percent (50%) or more, then Gigamon, directly or through its Authorized Channel Partner, shall invoice Customer (and Customer shall pay) for the higher tier Daily Data Limit plan at an increment sufficient to cover the excess usage for the balance of the Subscription Period (a "**Monthly True-Forward**").

2.6. Termination. Customer's failure to pay any invoice issued pursuant to Section 2.4 ("Quarterly True-Forward") or 2.5 ("Monthly True-Forward") within thirty (30) days of receipt may result in Gigamon's immediate termination of Customer's right to use all instances of such Tiered-Volume License Product. In the event of any such termination, Customer will (i) immediately cease all access and use of all instances of Tiered-Volume License Product, and (ii) within ten (10) business days of such termination, Customer will permanently erase all copies and instances of Tiered-Volume License Software. Gigamon's forbearance on not assessing a Quarterly True-Forward or Monthly True-Forward for a given period shall not constitute or be deemed a waiver for any subsequent period.

3. Effect of Supplement. Except as specifically provided in this Supplement, all other terms and conditions of the Agreement shall remain in full force and effect, without modification, addition or deletion. In the event of any conflict between this Supplement and the terms and conditions of the Agreement, this Supplement shall control.