

GIGAHERTZ STANDARD TERMS, CONDITIONS AND WARRANTY

All orders placed with GigaHertz, LLC ("GigaHertz") are subject to these terms, conditions and warranty. GigaHertz specifically rejects all inconsistent or additional provisions in Buyer's printed forms. Within this document: (a) "Product" will mean equipment and goods sold by GigaHertz to Buyer; (b) "Software" will mean software and firmware provided by GigaHertz to Buyer, either separately or as part of a Product; and (c) "Service" will mean any service provided by GigaHertz to Buyer.

1. **PRICE.** Unless otherwise stated, prices quoted will remain valid for thirty (30) days from Quotation date. Errors or omissions in price are subject to correction. Unless otherwise stated freight, customs fees, duties, freight forwarder fees, taxes however designated and all other costs after shipment are to be paid by the Buyer. Prices are in U.S. Dollars.
2. **PAYMENT.** Unless otherwise stated, terms of payment are 50% down payment with order, balance due when available for shipment within the United States and Canada. Invoices will be rendered as shipments are made. Late charges of 1% per month on outstanding balances may be charged. Orders less than \$1,000 normally require a 100% payment with order.
3. **SHIPMENT/SERVICE.** Shipment and Service dates are estimated in good faith but are not guaranteed by GigaHertz. After an order is accepted, the Buyer may not change shipment and Service dates without GigaHertz's written consent. GigaHertz will not be held liable for any late delivery or similar charges. Shipments will be made F.O.B. Lawrence, PA.
4. **TITLE, RISK OF LOSS AND INSURANCE.** Title, risk of loss and insurance responsibilities pass to the Buyer upon delivery of Products and Software by GigaHertz to a shipping agent or carrier.
5. **CANCELLATION/CHANGES.** If Buyer cancels or changes an order in whole or in part, the Buyer agrees to pay for all Services and work in process for the portion canceled or changed including a cancellation fee as determined by GigaHertz.
6. **INSPECTION.** GigaHertz will inspect Products prior to shipment in accordance with its normal practices. GigaHertz reserves the right to charge for other inspections or tests requested by Buyer.
7. **LICENSES AND PERMITS.** It is Buyer's responsibility to procure import and/or export licenses and comply with U.S. and other applicable import and/or export regulations if Buyer intends to export or re-export Products and/or Software.
8. **PACKING.** Products will be packed or packaged for U.S. shipment in accordance with standard commercial practices. GigaHertz will charge a reasonable fee for packing and/or packaging for export shipment or to comply with Buyer's instructions.
9. **TECHNICAL DATA.** All drawings, data, designs, tooling, equipment, procedures, engineering changes, inventions, computer software and all parts thereof, and all other information, technical or otherwise which was developed, made or supplied by GigaHertz as part of or in the production of any Product or Software or the performance of any Service sold, rendered or licensed hereunder will be and remain the sole property of GigaHertz **unless clearly specified in the purchase agreement.**

Buyer agrees that Software is hereby licensed (not sold) subject to the terms set forth in the applicable Software license. Buyer acknowledges that the Software contains information and trade secrets proprietary to or licensed to GigaHertz. No change, modification, defacement, alteration, reverse engineering, disassembly, decompilation or reproduction of such Software or disclosure of programming content to other parties is allowed without the express written consent of GigaHertz. Software is unpublished and any copyright notices placed thereon will not be deemed to constitute publication. Buyer agrees to require compliance with all terms of the applicable Software license by any future user of the Software.

10. **INFRINGEMENT.** GigaHertz will hold Buyer harmless from any loss, damage or expense (including reasonable attorney fees) resulting from infringement of U. S. Patents, trademarks or copyrights in connection with the purchase or use of GigaHertz designed Products and/or Software. If Buyer is prevented from using any GigaHertz designed Product or Software by injunction or court order because of such infringement, GigaHertz will, at its expense and election, either: (a) obtain the right for Buyer to continue using such Product or Software; (b) replace such Product or Software with a non-infringing substitute; (c) modify such Product or Software to make it non-infringing; or (d) grant Buyer a credit for such Product or Software in accordance with GigaHertz's depreciation policy. GigaHertz will solely control and defend or settle, at its option, any action or suit for which it is responsible hereunder. Buyer must promptly notify GigaHertz of any claim of infringement for which GigaHertz is responsible and cooperate fully in the defense of any such claim.

GigaHertz has no obligation or liability under this Article for any claim based on: (a) use of any Product or Software with equipment, devices or programs not designed by GigaHertz; (b) use of any Product or Software in a manner other than for which it was intended; (c) modification of any Product or Software; or (d) GigaHertz's adherence to Buyer's instructions or directions, in which case Buyer will hold GigaHertz harmless from any loss, damage or expense (including reasonable attorney fees) resulting there from.

11. **RETURNS.** Products and Software may not be returned without prior authorization from GigaHertz. Authorized returns may be subject to a restocking charge with transportation charges paid by Buyer.

12. WARRANTY.

- a. GigaHertz warrants each product (excluding software products) manufactured and sold by GigaHertz against defects in material and workmanship, under normal use and service, for a period of one (1) year from the date of shipment from GigaHertz's plant, when operated in accordance with GigaHertz's operating instructions. This warranty shall not apply to vacuum tubes, fuses, batteries or light bulbs.
- b. GigaHertz warrants that (a) GigaHertz designed Software will perform substantially in accordance with the accompanying written materials for a period of ninety (90) days from the date of shipment from GigaHertz's plant, and (b) hardware accompanying such Software will be free of defects in materials and workmanship under normal use and service for a period of one (1) year from date of shipment from GigaHertz's plant.
- c. Warranties are valid only when and if (a) GigaHertz receives prompt written notice of breach within the period of the warranty, (b) the defective Product is properly packed and returned by the Buyer (transportation and insurance prepaid), and (c) GigaHertz determines, in its sole judgment, that the Product is defective and not subject to any misuse, neglect, improper installation, negligence, accident, or (unless authorized in writing by GigaHertz) repair or alteration.

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GigaHertz's exclusive liability for any personal and/or property damages (including direct, consequential or incidental) caused by the breach of any or all warranties, shall be limited to the following: (a) repairing or replacing (in GigaHertz's sole discretion) any defective parts free of charge (F.O.B. GigaHertz's plant), and/or (b) crediting (in GigaHertz's sole discretion) all or a portion of the purchase price to the Buyer.

- d. Equipment furnished by GigaHertz, but not bearing its trade name, shall bear no warranties other than the warranties extended by the manufacturer at the time of delivery to the Buyer. **NO WARRANTIES, WHETHER STATUTORY, EXPRESSED OR IMPLIED, AND NO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, OTHER THAN AS SPECIFIED HEREIN, SHALL APPLY TO THE EQUIPMENT FURNISHED HEREUNDER.**
 - e. **IN NO EVENT WILL GIGAHERTZ BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WHETHER IN CONTRACT, TORT OR OTHERWISE. TO THE EXTENT POSSIBLE UNDER APPLICABLE LAW, THE TOTAL LIABILITY OF GIGAHERTZ SHALL BE LIMITED TO THE AMOUNTS PAID TO GIGAHERTZ BY BUYER FOR THE PRODUCT, SOFTWARE OR SERVICE ON WHICH THE CLAIM IS BASED.**
13. **FCC RULES.** GigaHertz warrants that in all quotations for GigaHertz Products that are subject to FCC rules, either: (a) the GigaHertz Product complies with all FCC rules governing such Product; or (b) the GigaHertz Product will comply with all FCC rules governing such Product before delivery of the Product to the Buyer.
15. **GENERAL PROVISIONS.**
- a. GigaHertz reserves the right to subcontract any obligation hereunder.
 - b. No waiver will be valid unless in writing and no waiver granted will release Buyer from subsequent strict compliance herewith.
 - c. GigaHertz is not liable for failure or delay in fulfilling its obligations under these Terms and Conditions due to causes beyond its control.
 - d. The laws of the Commonwealth of Pennsylvania, U.S.A. will apply to all transactions hereunder. Any action hereunder will be brought solely in the Commonwealth of Pennsylvania, U.S.A. Any claim, except for nonpayment, will be brought within one (1) year of shipment or completion of Services, and Buyer will be liable for any collection costs or attorney fees.
 - e. Claims for non-conforming orders must be submitted within thirty (30) days from shipment date.
 - f. These Terms and Conditions constitute the entire agreement between the parties with respect to the subject matter hereof and supersede any prior or contemporaneous agreement or representation written or oral. Any amendment hereto must be written and signed by GigaHertz.

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