



## TERMS AND CONDITIONS

### **1 ACCEPTANCE AND CANCELLATION OF ORDER**

All contracts are made and all orders are accepted by GigaOptiX Limited (“the Seller”) on the following conditions. These conditions are the only terms or conditions upon which the Seller supplies the goods or services (“the Goods”) to the buyer (“the Buyer”) and no other terms or conditions are accepted unless expressly approved by the Seller in writing. Orders accepted by the Seller may only be cancelled with the Seller's prior written consent. Orders only become binding on the Seller upon the submission by the Seller to the Buyer of a delivery note.

### **2 PRICES**

The price payable for the Goods is subject to alteration at the Seller's option by notice to the Buyer at any time before delivery. Small orders can be subject to an additional charge. All prices quoted exclude VAT and any costs of freight or insurance, unless otherwise specified. Subject to paragraph 2i) the price of the Goods will be that in force at the time of despatch.

### **3 PAYMENT**

Unless otherwise agreed in writing, payment shall be made by the Due Date shown on the invoice for such Goods.

Interest at 2½% per month will be charged on all monies outstanding after the relevant Due Date and the Buyer shall in addition pay to the Seller all legal and other fees, costs and expenses incurred by the Seller in connection with the collection by the Seller of any payment not made by the said Due Date.

If any sums due from the Buyer to the Seller are not paid by the Due Date on the invoice for such Goods then in addition to the rights of the Seller under paragraph 3ii), payment for all Goods shall become immediately due and payable, notwithstanding any date for payment previously agreed between the Buyer and the Seller. However, interest of 2½% per month on outstanding amounts, as provided in sub clause 3ii), will only be charged from the Due Date set out in the relevant invoices.

If full payment of both the invoice and the interest charges have still not been made within 4 months of the invoice date, then the Seller will commence court proceedings to recover the debt.

### **4 DELIVERY**

Delivery of the Goods shall be made by the Seller delivering the Goods to the address specified by the Buyer, or failing which, specified on the Seller's delivery note. Any delivery date or dates which may be quoted verbally or in writing are estimates only. The Seller shall not be liable for failure to deliver by such date or dates, or for any damage or loss arising directly or indirectly out of delay in delivery.



GigaOptiX Ltd 5C Informatics Center  
Number 3 Science Park West Avenue  
Hong Kong Science Park, New  
Territories, Hong Kong

Tel: +85281914530

## **5 SHORTAGES, DAMAGE AND/OR LOSS**

The Buyer shall inspect the Goods immediately upon delivery and shall, within seven days of such delivery, give notice in writing or by e-mail to the Seller at 5C Informatics Center, No. 3 Science Park, West Avenue, Hong Kong Science Park, Shatin, New territories, Hong Kong (e-mail: sales@Gigaoptix.com) of all claims on account of shortage, damage to or loss of the Goods or, in the case of services comprising the Goods, inadequate or non-performance. Claims for non-delivery or non-performance must be submitted in writing to the Seller within seven days after the date of receipt of invoice or delivery note, whichever is the earlier. In the absence of receipt of such written notice within the prescribed time limits, the Seller shall be discharged from all liability in respect of shortage and of loss or damage to the Goods or inadequate or non-performance.

## **6 RETENTION OF TITLE**

Risk shall pass on delivery but title to the Goods shall remain with the Seller until payment in full has been made to the Seller for the Goods, and all other sums due to the Seller have been paid.

Until such payment is made to the Seller, the Buyer shall hold the Goods on a fiduciary basis only, and shall store the Goods so as to be clearly identifiable as being the property of the Seller, ensuring that they are adequately insured against all usual risks and keeping them free from any charge, lien or other encumbrance.

Access shall be provided by the Buyer for the Seller's representative to investigate the storage of the Goods and to effect their collection.

The Buyer has a right to use the Goods in the ordinary course of his business.

In the event of the Buyer entering into liquidation or having a winding up order made against him or becoming subject to an administration order or a Receiver or Receiver and Manager being appointed to control his assets or in the event of the Buyer being an individual or individuals he or any of them committing any act of bankruptcy or having any bankruptcy petition presented against him or any of them, then the right to use the Goods as set out in sub clause iii) hereof shall cease and the Seller shall have the right to enter the Buyer's premises in order to retake possession of the Goods.

## **7 RETURN OF GOODS**

The Goods may be returned to the Seller only with the Seller's prior written agreement. In addition to any other conditions, which the Seller may at its discretion impose, any return will be subject to a handling charge of 10% of the invoiced price.



GigaOptiX Ltd 5C Informatics Center  
Number 3 Science Park West Avenue  
Hong Kong Science Park, New  
Territories, Hong Kong

Tel: +85281914530

## **8 GENERAL LIABILITY**

The Seller warrants that the Goods are produced in accordance with the standard specifications stated in the Seller's current official literature and will be fit for the purpose as stated.

Save as aforesaid all other conditions, guarantees or warranties, whether express or implied, are hereby excluded. The Seller's liability for any and all direct loss or damage resulting from any breach of the warranty contained in this clause or from any defects in the Goods or from any other cause howsoever arising, shall be limited to the purchase price of the quantity of Goods in respect of which such loss or damage is claimed and in no circumstances will the Seller be under any liability in respect of any indirect or consequential loss or damage whatsoever and howsoever arising.

Nothing in this clause 8 shall exclude or restrict the Seller's liability for death or personal injury resulting from its negligence.

## **9 DEFAULT**

Without prejudice to any other rights available to it the Seller shall have the right to terminate all or any contract between the parties or to suspend delivery if:

The Buyer fails to pay any monies owing by the Due Date.

The Buyer commits any breach of contract.

The Buyer goes into liquidation or administration or has a receiver appointed or commits any act of insolvency or bankruptcy.

The Seller has any reason to doubt the credit-worthiness of the Buyer.

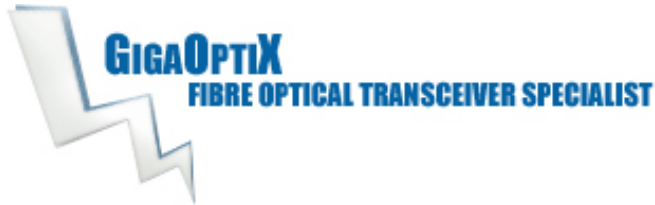
## **10 DISPUTES AND SET-OFF**

The Buyer will not be entitled to withhold payment of any monies correctly invoiced by and due to the Seller because of any disputed claim against the Seller. DATA PROTECTION ACT

We may record any failure by you to comply with our credit terms and may make such information available to other organisations to enable them to assess any application for credit.

## **12 FORCE MAJEURE**

Deliveries may be suspended by the Seller during any period in which it is prevented from manufacturing, delivery or taking delivery of the Goods through any circumstances outside its reasonable control.



GigaOptiX Ltd 5C Informatics Center  
Number 3 Science Park West Avenue  
Hong Kong Science Park, New  
Territories, Hong Kong

Tel: +85281914530

### **13. WARRANTY**

All goods carry a 3 Year Advanced replacement warranty against breakdown due to manufacturing defects unless otherwise specified.

The warranty on all products, unless otherwise stated, is 'return to base' and valid for a period of 3 Years from date of delivery. If during this period, GigaOptix Ltd is notified of any fault in any product, due to either faulty design or a defect in manufacturing or materials, GigaOptiX Ltd will replace or repair the product, depending upon the nature of the fault. GigaOptiX Ltd may also, at its own discretion, refund the purchase price of the faulty product. A copy of the purchase invoice (Proof of Purchase) must accompany any returned product.

GigaOptiX Ltd must be notified of the faulty product prior to it being returned. The cost of returning the product will be borne by the customer unless otherwise agreed by GigaOptix Ltd.

The warranty does not cover wear & tear, accidental or wilful damage. Your statutory rights are not affected.