



# VIAVI Care Support Plan Terms and Conditions

These VIAVI Care Support Plans terms and conditions ("Terms and Conditions") apply to any quote, order, order acknowledgment, and invoice, and any sale or provision of BronzeCare, SilverCare and MaxCare Support Plans as defined herein provided to Customer by VIAVI Solutions Inc. ("VIAVI"), in addition to VIAVI's General Terms ("General Terms"), which are incorporated by reference herein and are either attached hereto, available at [www.viavisolutions.com/terms](http://www.viavisolutions.com/terms) or available upon request.

## 1. PURPOSE AND SCOPE

These Terms and Conditions describe the Services that VIAVI will provide to, and perform for, Customer. These Terms and Conditions apply to Services included in BronzeCare, SilverCare and MaxCare Support Plans, as defined herein, and are limited to the Instruments configuration specified in an ordering document (i.e., a quote, order, order acknowledgment or invoice) which contains a description of the Support Plan. All Services and Documentation shall be provided in English.

If VIAVI performs any services outside the scope of the Services — including, but not limited to, services requested by Customer — such services will be rendered at Customer's additional expense under a separate SOW; provided, however, that VIAVI shall not be obligated to perform any services outside the scope of the applicable Services. VIAVI's obligation under these Terms and Conditions shall solely be to undertake the agreed Services activities and not to achieve certain technical, economic, or other results.

The Services shall be governed by these Terms and Conditions, including any Annexes hereto, the quotation sent to Customer by VIAVI ("Quotation"), General Terms and any valid SOW, if applicable, between the parties. These documents comprise the entire agreement between Customer and VIAVI with respect to Services for the Products supported by VIAVI. In case of conflict, the order of precedence is as follows: these Terms and Conditions, the General Terms, any SOW between the parties, and the Quotation.

## 2. DESCRIPTION VIAVI Care Support Plan Offerings

VIAVI Care offers a choice of different Support Plans providing customers the flexibility to purchase the best plan for their business needs. Support plans include access to the elements set forth in the paragraphs below for the specified contract coverage period.

### 2.1 BronzeCare

The BronzeCare Support Plan includes:

- (i) Hardware warranty with VIAVI Service Center Repair service (see section 3.2);
- (ii) Priority Technical Assistance (see section 3.1);
- (iii) Priority RMA Service (see section 3.4); and
- (iv) access to Self-paced Training modules (see section 3.5).

### 2.2 SilverCare

The SilverCare Support Plan includes:

- (i) Hardware warranty with VIAVI Service Center Repair service (see section 3.2);
- (ii) Factory Calibration and Maintenance according to the recommended calibration interval (see section 3.3);
- (iii) Priority Technical Assistance (see section 3.1);
- (iv) Priority RMA Service (see section 3.4);
- (v) access to Self-paced Training modules (see section 3.5); and
- (vi) Battery and Bag coverage (see section 3.6).

### 2.3 MaxCare

The MaxCare Support Plan includes:

- (i) Hardware warranty with VIAVI Service Center Repair service (see section 3.2);
- (ii) Factory Calibration and Maintenance according to the recommended calibration interval (see section 3.3);
- (iii) Priority Technical Assistance (see section 3.1);
- (iv) Priority RMA Service (see section 3.4);
- (v) access to Self-paced Training modules (see section 3.5); Express Loaner or HW exchange including return ship label (see section 3.7);
- (vi) Accessory Replacement for accessories that have been determined to be defective (see section 3.8);
- (vii) Battery and Bag coverage (see section 3.6).

## 2.4 GoldCare & FleetCare

GoldCare and FleetCare are flexible custom Support Plans that may include a custom combination of offerings from the VIAVI services portfolio. GoldCare agreement is purchased upfront with new product purchases, whereas FleetCare is an annual agreement providing coterminous support service coverage on specified fleet of existing customer instruments. Each GoldCare/FleetCare agreement will identify the specific list of included entitlements. The definition and terms of the identified entitlements shall be as described in section 3 of this document.

## 3. DESCRIPTION OF THE SUPPORT PLAN ENTITLEMENTS

### 3.1 Priority Technical Assistance

Support Plan customers enjoy priority access to VIAVI's technical assistance centers described in <https://www.viavisolutions.com/en-us/literature/care-premium-technical-support-service-terms-services-en.pdf>

### 3.2 Service Center Repair

Service Center Repair is carried out in TL9000 certified service centers to VIAVI original specifications. Instruments are updated with the latest firmware and modifications are performed to current factory standards. When Hardware has been pre-qualified as defective or faulty, VIAVI will either exchange or repair the unit, at our discretion, at no charge to the Support Plan member. Exchange units may be new or refurbished at VIAVI's choice. The model exchanged will be the same unit covered by the Support Plan. RMA requests for service must be submitted via the web or by phone to VIAVI Customer Care Center. Coverage excludes any damage resulting from misuse, abuse, or improper care. VIAVI reserves the right to determine if the cause of failure or out of specification performance is due to misuse of the Product. If VIAVI determines that the Product failure is due to misuse, an estimate will be submitted. Misuse includes damage resulting from dropping the instrument. Future coverage will be denied to this Product unless it has undergone repair or exchange by VIAVI. Freight costs from customer to VIAVI will be covered by the customer, return freight costs will be covered by VIAVI <https://www.viavisolutions.com/en-us/literature/product-repair-service-limited-warranty-and-disclaimer-terms-en.pdf>

### 3.3 Factory Calibration and Maintenance

Factory Calibration is carried out in TL9000 certified service centers to VIAVI original specifications. Instruments are updated with the latest firmware and modifications are performed to current factory standards. The calibrations are carried out within a quality management system according to ISO 9001:2015. The metrological confirmation system of measuring equipment complies with ISO 10012-1. The results of calibration are traceable to National Standards that are consistent with the recommendations of the General Conference on Weights and Measures (CGPM) or to standards derived from natural constants or to standards which rely on ratio measurements with self-calibrating technique for their calibration. If a National Standard is not available; the calibration is traceable to the Reference Standard of VIAVI.

For units returned VIAVI Service centers for calibration under a qualified VIAVI Care support plan, VIAVI will update its firmware, verify that the unit is working properly, perform a calibration to bring it back to nominal values, and issue a calibration certificate. For VIAVI instruments where calibration is not required, VIAVI will perform maintenance and full verification of the instrument. VIAVI will also incorporate any open engineering changes (ECN's) including replacing entire assemblies as required.

Factory Calibration and Maintenance \service is provided on instruments covered by qualified VIAVI Care support plans (SilverCare and MaxCare) at no charge to the customer provided that: i) the instrument is under active support plan contract; and ii) the time between the most recent calibration and the current calibration is not less than VIAVI's manufacturing recommended calibration cycle as documented in the product specifications.

### 3.4 Priority RMA Service

Priority RMA Service includes prioritized RMA processing for issuing RMA paperwork and in servicing the instrument at VIAVI service center. VIAVI Customer Care will prioritize response to customer RMA requests for any instrument with active VIAVI Care support plan. In addition, the VIAVI Service Center will prioritize the service work on VIAVI Care instruments with the objective of delivering 5 days turnaround time for any repair or calibration carried out in VIAVI service centers.

For the occasional instance when VIAVI sometimes needs to trans-ship an instrument to another VIAVI Service Center for the required service, VIAVI may offer an equivalent or better loaner unit to the customer as part of the VIAVI Care Priority RMA Service. In agreement with the customer, VIAVI will ship the loaner unit including basic accessories and detailed delivery note. The loaner unit is property of VIAVI, and customer agrees to return the loaner unit including the complete set of accessories to VIAVI within 10 business days of returned receipt of the repaired unit. If the loaner unit and/or accessories are not returned within 10 business days, VIAVI may exercise any or all of the following actions: i) invoice the customer for replacement unit/accessories; ii) deny future loaner/expedited requests; iii) terminate VIAVI Care agreement. Loaners are subject to availability and some exclusions apply.

### 3.5 Self-paced Training

Support Plan customers will receive access via internet to a protected area (Learning Management System) providing a library of self-paced training courses. Users must register at [VIAVICare@viavisolutions.com](mailto:VIAVICare@viavisolutions.com) by providing Instrument type and serial number for the instrument that has a qualified support plan.

### 3.6 Battery / Bag Coverage

VIAVI will provide a one-time replacement of bad battery and worn bag/glove within the duration of a 5-year SilverCare or MaxCare Support Plan. Replacement will only be available when instrument is returned to VIAVI for repair/calibration service. Hard cases are excluded, and coverage is not applicable for instruments sold without bag/battery.

### 3.7 Express Loaner

Express Loaner is a component of MaxCare Support Plans and provides customers with a fully configured loaner unit that VIAVI will ship to the customer in advance of the customer returning the covered instrument to VIAVI for repair or calibration service. VIAVI will ship an equivalent or better device, including basic accessories, the next business day following VIAVI receipt of RMA request including detailed delivery note. Calibration service must be scheduled 6 weeks in advance to ensure loaner availability. The loaner unit is property of VIAVI, and customer agrees to return the loaner unit including the complete set of accessories to VIAVI within 10 business days of return receipt of the repaired/calibrated unit. If the loaner unit and/or accessories are not returned within 10 business days, VIAVI may exercise any or all of the following actions: i) invoice the customer for replacement unit/accessories; ii) deny future loaner/expedited requests; iii) terminate VIAVI Care agreement. Loaners are subject to availability and may be limited in cases of batch returns and some exclusions apply.

### 3.8 Accessory Replacement

When an accessory has been determined to be defective or faulty, VIAVI will, at no charge to customer, either repair the accessory or exchange at VIAVI's discretion. Exchanged accessories may be new or refurbished. All returned accessories become property of VIAVI. The following limitations apply: no more than one accessory may be exchanged per 12 month period; applicable accessories include only those accessories that are considered essential to the operation of the instrument and were shipped with the original purchased product; batteries are excluded. The Customer is responsible for shipping faulty accessory back to VIAVI. If returned accessory is determined to be functioning properly VIAVI reserves the right to charge a diagnostic fee.

## 4. CUSTOMER RESPONSIBILITIES

Customer will:

- a) Notify VIAVI of any Product problem in a timely manner.
- b) Ensure that the Product is on a supported Software Release level, update the Product as soon as possible when new Software Maintenance Packs and Software Releases are available and before the currently installed Software Release is out of support.

## 5. PAYMENT

VIAVI shall invoice Customer in advance of the Support Plan Period. Customer shall make payment within thirty (30) days of the invoice date and in accordance with the General Terms. VIAVI reserves the right to, upon written notice to Customer, adjust the pricing for the Services, if there is a change in System configuration or the level of Customer's Service requirements.

## 6. LIMITATIONS AND EXCLUSIONS

- a) Data recovery services are not included as part of the Services, regardless of the cause of data loss. If Customer requests VIAVI to perform data recovery, this service, if available, will be charged at VIAVI's then-current rates.
- b) Services do not include program development, coding, isolation of coding problems, assistance to or consulting or implementation of the Customer's application on the System, customization of VIAVI tools or integration of VIAVI tools with customer systems.
- c) Services are not a substitute for any formal Customer education course. VIAVI and Customer may plan and implement a training program to train Customer Contacts, System administrators and users on the current revision of the Software.
- d) VIAVI will provide Services through its own staffing or by working with qualified third-party suppliers and subcontractors, as appropriate.
- e) VIAVI will use commercially reasonable efforts to resolve problems but does not guarantee that it will be able to do so or that any resolution will be satisfactory to Customer.
- f) Decommissioning and disposal of hardware is not included as part of the Services.
- g) Support for cases relating to integration or communication between two or more VIAVI systems requires all of the systems to have a valid support contract unless agreed in advance, in writing, by VIAVI.
- h) VIAVI shall not be obligated to provide Services if Defects are caused by or related to the following:
  - (i) Customer's mishandling, abuse, misuse, or use of the Instrument other than in accordance with VIAVI's operating instructions;
  - (ii) actions or omissions of persons other than VIAVI;
  - (iii) installation, maintenance, or repair of the Instrument by someone other than VIAVI, except maintenance performed by Customer if and to the extent authorized by VIAVI in a duly signed writing; or
  - (iv) Force Majeure conditions as defined in the General Terms.
- i) VIAVI shall not be obligated to provide Services for the following:
  - (i) Instruments that have been modified by someone other than VIAVI, unless such modifications were directed or approved by VIAVI in writing and made in strict conformance with all specifications and instructions provided by VIAVI in such writing; or
  - (ii) third-party products.
- j) VIAVI shall not be obligated to provide Services, except for the (i) most recent (Major or Minor) Software Release and (ii) immediately preceding (Major or Minor) Software Release for a period of twelve (12) months following the issuance of the next Major or Minor Software Release, and only when used with VIAVI specified hardware configurations and VIAVI recommended operating system, database and applied Software Updates. VIAVI shall have no obligation to provide Services for any Software that has been superseded by a current release more than twelve (12) months prior to the then-current date.

## 7. LIMITED WARRANTY AND DISCLAIMER

- a) **LIMITED WARRANTY**  
VIAVI will perform Services substantially in accordance with these Terms and Conditions.
- b) **EXCLUSIVE REMEDY**  
If the Services materially fail to conform to the limited warranty set forth in Section 7 a) (Limited Warranty), Customer may terminate the Services in accordance with Section 8 e) (Termination for Cause) if VIAVI fails to cure

a non-conformance within thirty (30) days after receiving Customer's detailed request to cure the non-conformance. Termination shall not affect (i) Customer's obligations to pay for Services already performed before VIAVI receives Customer's request to cure; or (ii) any other obligations of Customer under these Terms and Conditions. THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 7 B) (EXCLUSIVE REMEDY) WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST VIAVI WITH RESPECT TO A NON-CONFORMANCE OF THE SERVICES.

c) **DISCLAIMER**

EXCEPT AS SPECIFIED IN SECTION 7 A), ABOVE, (LIMITED WARRANTY) VIAVI MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, VIAVI DISCLAIMS ALL IMPLIED WARRANTIES, CONDITIONS, AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CUSTOMER'S OPERATING SYSTEM, AND NON-INFRINGEMENT, REGARDLESS OF THE LEGAL THEORY ON WHICH SUCH IMPLIED WARRANTY, CONDITION OR REPRESENTATION MAY BE BASED, INCLUDING, WITHOUT LIMITATION, CONTRACT, COURSE OF DEALING, USAGE, OR TRADE PRACTICE. CUSTOMER SHALL HAVE NO WARRANTY CLAIM UNDER SECTION 14 A) (LIMITED WARRANTY) OF THESE TERMS AND CONDITIONS, UNLESS VIAVI RECEIVES CUSTOMER'S WRITTEN REQUEST TO CURE A NON-CONFORMANCE WITHIN THIRTY (30) DAYS AFTER ITS OCCURRENCE.

## 8. TERM AND TERMINATION

- a) VIAVI will provide the Services during the Support Plan Period, which shall not be automatically renewed. If Customer wishes to obtain the Services beyond the initial Period or for additional Products, Customer has to submit a purchase order. Nothing herein obligates VIAVI to accept such order for a subsequent renewal period. Rates for subsequent Support Plan Periods may vary. Additional fees may apply if Customer allows the Services to lapse and wishes to restart such Support Plan Services at some future date.
- b) Services shall be automatically terminated with respect to Software for which the license has expired or was terminated for any reason.
- c) In case Customer has not paid its fees for the future Support Plan Period before the end of the then-current Support Plan Period, no further Services will be provided by VIAVI.
- d) Customer may reinstate lapsed Support Plans by paying all missed fees in arrears, plus any payment as determined by VIAVI or, that VIAVI requires, to repair or calibrate the Instrument.
- e) Unless VIAVI validly terminates the Services for cause due to Customer's material breach of these Terms and Conditions, or such Services automatically terminate in accordance with Section 7 b) of these Terms and Conditions, Customer shall be entitled to receive a proportionate credit equal to any prepaid fees applicable to the terminated portion of the then-current Software Maintenance Period. If Customer validly terminates the Services for cause because of VIAVI's material breach of these Terms and Conditions, Customer shall be entitled to receive a proportionate credit equal to any fees applicable to the thirty (30) days immediately preceding the date of termination. Customer shall not be entitled to receive any refunds. If VIAVI terminates Services due to Customer's material breach, Customer shall return to VIAVI VIAVI's Confidential Information and other tangibles and intangibles received in connection with the Services, without retaining any copies thereof and all licenses granted to Customer under these Terms and Conditions.

## 9. SURVIVAL

The General Terms, and Sections 5 (Payment), 7 (Limited Warranty and Disclaimer), and 8 (Term and Termination) of these Terms and Conditions shall survive any termination of Services. Customer's licenses to Software Updates shall survive only so long as Customer continues to fully comply with all provisions of these Terms and Conditions, the General Terms, and the Software License Terms.