



TERMS AND CONDITIONS FOR END-CUSTOMERS PURCHASING VIAMI NETWORK AND SERVICE ENABLEMENT PRODUCTS THROUGH VIAMI AUTHORIZED RESELLERS

These Terms and Conditions ("T&Cs") apply to all end-user customer ("Customer") purchases of Viavi Solutions Inc. ("VIAMI") Network and Service Enablement products (each a "Product"; collectively the "Products") through a VIAMI Authorized Channel Partner ("Channel Partner"), VIAMI Authorized Master Distributor ("Master Distributor") or VIAMI Authorized Manufacturing Representative ("Manufacturing Rep") (Channel Partner, Master Distributor and Manufacturing Rep shall be referred to as an ("Authorized Reseller"). These T&Cs may be read in conjunction with any Authorized Reseller provided terms and conditions; provided, however, that in the event of a conflict between the subject matter of these T&Cs and any Authorized Reseller provided terms and conditions, the specific provisions of these T&Cs shall control. By ordering, accepting delivery, keeping, or using products to which these T&Cs are attached, included or referenced, Customer agrees to such T&Cs.

INTELLECTUAL PROPERTY CLAIMS.

Claims. VIAMI will defend or settle any third-party claim against Customer that Products (excluding build to print products) as delivered by VIAMI infringe a third party's copyright, trade secret, or U.S. patent, provided Customer promptly notifies VIAMI in writing, and cooperates with and provides control of the defense or settlement to VIAMI, to the extent legally permissible.

Remedies. In the event of an infringement claim under the Claims paragraph above, VIAMI will pay (i) all infringement claim defense costs, and (ii) all settlement amounts and final court-awarded damages, provided in all cases that such costs, amounts, and/or damages do not exceed the amount that Customer paid for the Products at issue. If such a claim appears likely, VIAMI may, at its sole option, modify the Product(s) to make it non-infringing, procure any necessary licenses, or replace it with a non-infringing model. If VIAMI determines that none of these options is reasonably available, VIAMI will, upon Customer's return of the Product(s), provide a prorated refund of the fees that Customer paid for the Product(s), depreciated on a 36 month for software Products or 60 month linear basis for hardware Products.

Exclusions. Notwithstanding the foregoing, VIAMI has no obligation for any claim of infringement to the extent arising from: (i) VIAMI's compliance with, or use of, Customer's designs, specifications, instructions or technical information; (ii) Product modifications by Customer or a third party; (iii) Product not used as expressly provided within the Documentation, VIAMI's specifications or related application notes; or (iv) use of the Product with products not supplied by VIAMI. This Section states VIAMI's entire liability, and Customer's sole remedy, for infringement claims.

LIMITATION OF LIABILITY.

Limitations. IN NO EVENT SHALL VIAMI HAVE ANY LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, REVENUE, OR DATA, INSTALLATION OR REMOVAL COSTS, OR COST OF COVER. THE LIABILITY OF VIAMI FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH ANY GOODS OR SERVICES SHALL NOT EXCEED A TOTAL AMOUNT EQUAL TO THE PURCHASE PRICE PAID OR PAYABLE BY CUSTOMER FOR THE PRODUCTS PRINCIPALLY RESPONSIBLE FOR SUCH DAMAGES WITHIN THE LAST 12 MONTHS PRECEDING THE CLAIM UNDER THIS AGREEMENT.

Scope. THE LIMITATIONS OF LIABILITY IN THE ABOVE SECTION (LIMITATIONS) SHALL APPLY TO ANY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF VIAMI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE UNDER THESE TERMS FAIL OF THEIR ESSENTIAL PURPOSE.

RIGHTS IN INTELLECTUAL PROPERTY AND TOOLING.

All Rights Reserved. Except as expressly agreed otherwise in writing, VIAMI and its licensors reserve all rights, title and interests, including all intellectual property rights, in and/or related to (i) any software Products and/or documentation, and (ii) the Products. Software Products and documentation are licensed, not sold. The use of a copyright notice on any Product shall not be taken to indicate that it has been published. All right, title and interest in and to any work product, and/or intellectual property rights, whether or not subject to statutory protection, which are made, created, developed, written, conceived or first reduced to practice by VIAMI solely, jointly or on its behalf, in the course of, arising out of, or as a result of services performed, and any related tooling, set-up, fitting-up and preparation charges whether or not invoiced, shall belong to and be the sole and exclusive property of VIAMI.

No Reverse Engineering. To the extent legally permissible, Customer agrees not to reverse engineer, translate, create derivative works of, decompile, separate, and/or disassemble, any Products or portions thereof nor allow or assist others to do so.

Actions under Mandatory Law. To the extent that Customer is expressly permitted by applicable mandatory law to take any actions that are prohibited under these terms, including, but not limited to, reverse engineering, Customer agrees to refrain from exercising such rights unless and until Customer has given VIAMI three (3) weeks' prior written notice of Customer's intent to exercise any such rights and VIAMI has not offered reasonable alternatives to Customer's exercise of the mandatory rights within such three (3) week period.

Marks and Labels. Customer acknowledges the goodwill associated with VIAMI's trademarks. Customer shall not obscure, remove or alter any trademarks, patent numbers, labels, serial numbers, product identification, copyright or other notices affixed to any Products, related documentation or packaging, without the express prior written consent of VIAMI. Customer shall display VIAMI's and its licensors' names and logos as well as the name of any Products on each copy of software Product or documentation made by Customer (provided that Customer shall not make any copies except as permitted by VIAMI in a duly signed writing).

Firmware License. Subject to the terms and conditions of this Agreement, VIAMI grants Customer a non-exclusive, limited and restricted license to use firmware as part of the Product on, with, or for, which it is delivered or made available; VIAMI does not permit Customer to make any copies or derivative works of firmware and Customer may not transfer firmware, except as part of the same Product on, with, or for, which it is delivered or made available. Firmware may include license terms provided by VIAMI and/or its third-party licensors which will apply to the use of the firmware, and take precedence over these license terms.

Documentation License. VIAMI grants Customer a non-sub-licensable, non-exclusive, non-transferable, limited license to use the Documentation that VIAMI provides for Customer's internal business purposes solely in support of Customer's use of the Products. Customer is not authorized to copy or modify documentation, except as expressly permitted by VIAMI in a duly signed writing.

Limited Product Warranty. Notwithstanding any provision to the contrary (but subject to the operation of any law to the extent it cannot be excluded), VIAMI's sole and exclusive obligations to Customer for any Product made by VIAMI and sold hereunder are solely as described in this Section and the next Section below. For any Product which has been returned to VIAMI under the RMA procedure (as defined herein) and which in the reasonable opinion of VIAMI is determined to be defective in workmanship, material or not in compliance with the VIAMI specification applicable to the Product and has in fact failed under normal use on or before the specific Product warranty periods

set forth at <https://www.viavisolutions.com/en-us/services-and-support/support/warranty-terms-and-conditions> and incorporated herein by reference. VIAVI With respect to Products resold by Manufacturing Reps, these Products were used by the Manufacturing Reps for demonstration purposes and only carry the remaining warranty period from VIAVI's original manufacturing warranty. All third-party products (including software Products or firmware) provided by VIAVI carry only the original manufacturer's warranty applicable to Customer. VIAVI will only accept for repair, replacement or credit under warranty Products made by third parties if expressly authorized to do so by the relevant third party. Any Product repaired or replaced under warranty is only warranted for the period of time remaining in the original warranty for the Product. Customer shall have no warranty claims, unless VIAVI receives from Customer, before the end of the warranty period and within thirty (30) days of the date on which Customer first came to know, or should have known, about the warranty claim, (A) a written notice describing the warranty breach in reasonable detail (a "Warranty Claim"); and (B) information in sufficient detail to enable VIAVI to reproduce and analyze the failure.

Excluded Causes. Customer has no warranty rights with respect to defects or non-conformities caused by (i) use of the Product with hardware or software that was not expressly specified in writing by VIAVI as suited for use with the Product; (ii) Customer's failure to follow VIAVI's operating instructions; (iii) failure to implement updates; (iv) changes to the Customer environment in which Product was installed; (v) acts or omissions of persons other than VIAVI or its authorized representatives; (vi) installation or maintenance of Product by someone other than VIAVI or persons certified by VIAVI; (vii) being accidentally damaged, disassembled, modified, misused, repaired or reworked (by any party other than VIAVI or its authorized agents), improperly stored or handled, used in conjunction with another product that is incompatible or of an inferior quality, or used in applications which exceed the Product's specifications or ratings, neglected, improperly installed or otherwise abused or is used in hazardous activities; or (viii) "acts of God" or other force majeure conditions.

Excluded Product and Components. Customer has no warranty rights with regard to any (i) consumable Product or parts thereof (e.g., parts with an expected useful life of less than ninety (90) days, such as certain batteries); (ii) Product that has been modified by someone other than VIAVI, unless such modifications were directed or approved by VIAVI in writing and made in conformance with all specifications and instructions provided in such writing; (iii) prototypes, experimental, alpha, beta, field trial or unqualified Product; (iv) any patches, updates, or revisions that VIAVI makes, at its sole discretion, available on its website or otherwise (for the avoidance of doubt, VIAVI is not obligated to make any patches, updates, or revisions available outside the scope of specific maintenance agreements); (v) build to print Product and any other Product that VIAVI provides in accordance with Customer's request, specifications, or instructions, unless VIAVI agrees in a duly signed writing that the provided Product shall be covered by this limited warranty; and (vi) Product not returned in accordance with VIAVI's RMA procedure.

Refurbished Parts and Prior Testing. Product may incorporate reconditioned or refurbished parts or subassemblies and may have been used in testing prior to sale.

Data Protection. VIAVI will collect personal data about Customer when taking orders for and supplying Customer with Products, including personal data obtained from an Authorized Reseller when a sale of a Product or Products is made via an Authorized Reseller. The personal data may include Customer's name, address, email address and telephone number ("Customer Data"). VIAVI relies on the following legal bases to use and process Customer Data, including that the processing is necessary for VIAVI's legitimate interests to manage the commercial relationship with Customer and for related functions including for administrative purposes, such as business processes, including maintaining business and statutory records, correspondence with Customer, addressing requests made by Customer, business analysis, transactions, security and planning. The processing of Customer Data is also necessary for the performance of the contract between VIAVI and Customer and is necessary for compliance with VIAVI's legal obligations, such as accounting and tax requirements. Where applicable, VIAVI will process Customer Data on the basis of Customer consent (for example, consent to receiving electronic marketing communications from VIAVI about Products), from which Customer is entitled to subsequently withdraw at any time by contacting VIAVI at privacy@viavisolutions.com without affecting the lawfulness of processing based on consent before its withdrawal.

VIAVI will retain Customer personal data for as long as it is relevant to the commercial relationship with VIAVI or as long as necessary to comply with any legal obligation or to fulfill the above-listed purposes. Sometimes VIAVI may need to share Customer Data with other companies within the VIAVI group and with third parties. VIAVI will only do so when necessary for legitimate businesses purposes. For example Customer Data may be shared within the VIAVI group of companies for administrative reasons; VIAVI may share Customer Data with carefully selected service providers that provide services related to VIAVI's business and under contract to VIAVI, including advisers and insurers. Service providers will be carefully selected and bound by appropriate contractual protections to protect the security and confidentiality of Customer Data, where required by applicable law. VIAVI may also share Customer Data with competent public corporations and government authorities as required by law or legal process and with any new (or prospective) owners, should there be a change (or prospective change) in the ownership of VIAVI.

Customer Data may be transferred to VIAVI companies or to third parties operating outside of the European Economic Area ("EEA"), including but not limited to the United States. Data protection laws may or may not apply in jurisdictions outside the EEA or may not be as stringent as those in the EEA. In any case, VIAVI will implement appropriate contractual measures (such as standard data protection clauses, a copy of which Customer can obtain by contacting privacy@viavisolutions.com) to ensure that the relevant VIAVI companies and third parties outside the EEA provide an adequate level of protection to Customer Data as set out in this policy and as required by applicable local law.

Customers are entitled to request access to, rectification or erasure of Customer Data or restriction of processing or to object to processing of such Customer Data and other rights in accordance with applicable law. Customers may exercise such rights by contacting privacy@viavisolutions.com. VIAVI will provide Customer with a response in accordance with applicable data protection law. VIAVI may refuse to provide such information in limited circumstances under applicable local law.

If, having considered the Customer Data VIAVI holds, Customer finds that it is inaccurate or out of date or Customer otherwise has any concerns, Customer can request that Customer be updated, amended, erased or restricted in accordance with applicable requirements. Customer also has the right to lodge a complaint before the relevant data privacy authority should VIAVI violate applicable data privacy laws(s) in our processing of Customer Data.

VIAVI takes appropriate measures to ensure the security and confidentiality of Customer Data it holds and to limit access to that Customer Data in order to safeguard it from loss, interference, misuse, unauthorized access, disclosure, alteration or destruction.

Exclusive Remedies. If any Product materially fails to conform to the limited warranty set forth in this Section (Limited Warranty) and actually fails during the applicable warranty period and under normal use, VIAVI shall, at its sole discretion (i) repair or replace the non-conforming Product to remedy the non-conformity identified by Customer in accordance with the above Section (Limited Product Warranty); or (ii) issue a credit to Customer for the amounts paid for the Product in exchange for return of the non-conforming Product, in which case Customer's licenses to any Firmware shall be automatically revoked. Customer hereby transfers to VIAVI title and ownership of any parts that VIAVI replaces.

Disclaimer. THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 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 ANY NON-CONFORMANCE OF PRODUCTS. EXCEPT AS SPECIFIED IN THIS LIMITED PRODUCT WARRANTY VIAVI MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY PRODUCT. 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, AND NON-INFRINGEMENT, REGARDLESS OF THE LEGAL THEORY ON WHICH SUCH IMPLIED WARRANTY MAY BE BASED, INCLUDING, WITHOUT LIMITATION, CONTRACT, COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

RETURN PROCEDURE. Customer must make all claims under the warranties, and no claim will be accepted from any third party. The warranties set forth herein are non-transferable. With respect to warranty claims under this Agreement, VIAVI will accept Products only if returned in compliance with VIAVI's Return Material Authorization process ("RMA"). Customer shall obtain a RMA number from VIAVI prior to returning any Products and ship the Products prepaid and insured to the local care center or FCA point, as instructed by VIAVI. If Customer returns Products without an itemized statement of claimed defects, VIAVI will not evaluate the Products but will return them to the Customer at the Customer's expense. Any Product that is returned to VIAVI but which is found to meet the applicable specifications for the Products and/or is not defective in workmanship and materials shall be subject to VIAVI's standard examination charge in effect at the time, which shall be charged to, and paid for by, Customer.