



## VIAMI Terms and Conditions of Purchase for China

**1. General:** A purchase order ("PO") from Viavi Solutions Inc. or one of its subsidiaries ("VIAMI") constitutes that VIAMI entity's offer to purchase the products, deliverables, and/or services described or referenced thereon (collectively, "Products") from supplier of such Products ("Seller") in accordance with the following terms and conditions and any additional terms and conditions printed on the face of the PO that do not conflict with such following terms (collectively, "VIAMI Terms"). Seller shall be deemed to have accepted this offer, and in the absence of a separate, signed agreement between VIAMI and Seller, the VIAMI Terms become the exclusive and binding agreement between the parties for the purchase of Products ("Agreement"), upon the earlier of (i) acceptance or acknowledgment of the PO whether orally, in writing or otherwise, or (ii) commencement of performance of Seller's obligations under the PO. All other terms and conditions are hereby expressly rejected and superseded by the VIAMI Terms, and failure by VIAMI to object to any other provision, and/or VIAMI's acceptance of the Products, shall not be deemed acceptance of Seller's terms, nor a waiver of the VIAMI Terms. VIAMI Terms may only be excluded or amended by express written agreement signed by a duly authorized representative of VIAMI. Estimates or forecasts provided by VIAMI are for information purposes only, and shall not constitute commitments or obligations to purchase. If a separate, signed purchase agreement exists between VIAMI and Seller with respect to the Products, the terms of such agreement shall prevail over any inconsistent terms herein. A copy, facsimile or electronic version of this document shall have the same force and effect as the original document.

**2. Prices:** All prices shown on the face of the PO are FCA Seller's facility (Incoterms 2020), unless otherwise specified on the face of the PO, and are the maximum prices to be charged for the Products. Due dates for payment of invoices shall be net forty-five (45) days from the date of receipt of a valid invoice from Seller unless otherwise specified on the face of the PO. Title to the Products shall pass to VIAMI upon receipt at the identified destination point and, notwithstanding any term to the contrary herein, risk of loss in and damage to the Products shall pass to VIAMI upon VIAMI's receipt of the Products. All prices are firm and fixed, except in the event of any decrease in Seller's price for any Products in a quantity similar to that reflected in the PO, on or before delivery of Products is complete under such PO, in which case Seller shall provide a corresponding credit or rebate to VIAMI within thirty (30) days or on the next invoice, whichever occurs sooner.

**3. Pricing Commitment:** Seller represents and warrants that the prices charged for Products are no greater than the lowest prices charged by Seller to any other customer of Seller for substantially the same quantity of substantially the same products. Seller agrees to allow VIAMI to reasonably verify compliance with this provision by means of an independent external auditor.

**4. Shipping:** Unless instructed otherwise, Seller shall: (i) ship the material covered by the PO complete; (ii) ship in accordance with the instructions appearing on the face of the PO; (iii) place the PO number, freight carrier name, number of cartons (in shipment), Seller part number / description and VIAMI part number with HTS (tariff code) and ECCN, and VIAMI buyer name on all packaging and shipping documents; and (iv) label shipping cartons with VIAMI part number(s) and quantity, serial number(s) (when applicable) and item description. Seller shall provide adequate protective packing to prevent loss or damage, and in accordance with best commercial practices in the absence of any specifications provided by VIAMI all at no additional charge, and Seller shall bear full responsibility for damage due to improper packing or shipping of the Products. No partial or complete delivery will be made prior to the delivery date or dates specified unless VIAMI has given prior written consent. VIAMI may, at its option and sole discretion, return any deliveries made prior to the delivery date, and in such event, Seller shall reimburse and fully indemnify VIAMI for any and all costs or expenses related to such Product return.

**5. Late Delivery:** In this Agreement, time is of the essence. Failure to deliver Products within the time stated on the PO shall constitute a material breach. Seller shall notify VIAMI as soon as it becomes aware that it cannot meet the delivery date specified on the face of the PO and shall propose a new delivery date. In the event of such delay, without prejudice to VIAMI's other rights and remedies hereunder: (i) VIAMI reserves the right to instruct Seller to take any practicable action to remedy any delay in delivery; (ii) VIAMI shall have the right to claim from Seller by way of liquidated damages, ten percent (10%) of the price per week or part thereof, for each week, or part thereof, such Products are delayed; (iii) VIAMI may cancel the PO and/or reject the Products, without any liability whatsoever to Seller; and/or (iv) VIAMI may purchase replacements elsewhere and Seller shall be liable for the actual and reasonable costs and damages VIAMI incurs. Seller shall, at no additional cost to VIAMI, employ accelerated measures such as material expediting fees, premium transportation costs or labor overtime to ensure the Products are delivered on or before the delivery date.

**6. Cancellation & Rescheduling:** VIAMI may, at any time, with or without cause, unilaterally cancel or terminate the PO, in whole or in part ("Cancellation"). In the event VIAMI terminates without cause, VIAMI agrees to negotiate in good faith a reasonable compensation amount. Notwithstanding the foregoing, where VIAMI provides Seller with notice of Cancellation of a PO at least thirty (30) days prior to the scheduled delivery date, VIAMI shall have no liability or obligations to Seller whatsoever. VIAMI may, without liability on five (5) days notice (or greater), reschedule any delivery date to a later date. Seller shall not, without VIAMI's prior written consent, commence manufacture, or procurement of parts for, the Products in advance of Seller's normal lead time for such Products.

**7. Changes:** By written notice to Seller, VIAMI may at any time unilaterally: (i) suspend the work or shipment under a PO in whole or in part for a stated time period; and/or (ii) make changes in

one or more of the following elements: designs; drawings or specifications; method of shipment or packing; place or time of delivery; or quantities to be furnished. If such suspension or change causes a change in the cost of, or the time required for furnishing the Products, an adjustment may be made in the PO price and/or delivery schedule as agreed by VIAMI. If a price and/or schedule adjustment is not included in the notice, no increase in price or delay in delivery will be allowed unless Seller makes, with a detailed explanation, a claim in writing within thirty (30) days from the notice date. Nothing contained in this Section shall excuse Seller from proceeding without delay in performing this PO as changed. Seller shall not make any changes to the specifications, manufacturing processes or manufacturing site for the Products under this PO, without VIAMI's prior written consent. Breach of this provision shall entitle VIAMI to immediately terminate the PO without any notice or liability to Seller whatsoever.

**8. Inspection:** VIAMI shall have a reasonable time after delivery to inspect and accept the Products. Where VIAMI discovers defective or non-conforming Products, VIAMI may at its option and without prejudice to any other rights or remedies it may have hereunder or at law: (i) at Seller's expense and at VIAMI's option, return such Products for refund, credit, repair or replacement, (ii) obtain a price reduction, as determined by VIAMI in good faith; and/or (iii) at VIAMI's option, VIAMI may perform a partial or complete inspection, analysis and/or sorting of all delivered Products for the purposes of segregating any defective or non-conforming Products, and Seller shall pay, and fully indemnify VIAMI for, VIAMI's expenses related to such inspection, analysis and/or sorting, including without limitation, any labor costs arising from such inspection, analysis, and/or sorting. If Seller delivers a quantity of Products greater than that specified in the PO, VIAMI may reject all or part of the excess quantity or accept all or part of such quantity. Any excess quantity of Product accepted by VIAMI shall be subject to the terms and conditions of this Agreement. If Seller delivers a quantity of Products less than that specified herein, VIAMI may cancel the PO in respect of the undelivered quantity without any liability to Seller whatsoever.

**9. Warranty:** Seller warrants to VIAMI and its customers that: (i) the Products will be new and free from defects in title, design, material and workmanship; (ii) where applicable, the Products will conform to and perform in accordance with specifications, drawings and samples furnished or accepted by VIAMI; (iii) the Products shall comply with all laws, regulations, and industry standards applicable to the nature of the products supplied; (iv) Seller shall provide technical assistance, functionally equivalent replacement Products, repair services and failure analysis services, on any individual Product, including discontinued Products, for a period of ten (10) years after the later of: (a) the ship date to VIAMI for any individual Product or (b) Seller's discontinuance of the Product; (v) services will be performed by qualified and suitably trained individuals with sufficient experience and skill to perform such services, and with due diligence and in a manner consistent with industry standards applied to the performance of similar services; (vi) any Products provided to VIAMI shall not infringe or constitute an infringement or misappropriation of any copyright, patent, trademark, service mark, trade name, trade secret or similar proprietary right conferred by contract, statute, common law or any other law hereunder; (vii) Seller shall adhere to any VIAMI quality policy, procedure, or control required by VIAMI; and (viii) Seller has not and will not act unethically, and Seller has not offered or given, and will not offer or give, any employee, agent or representative of VIAMI or any government, any gift or gratuity with the intent of securing business from, or favorable treatment by, VIAMI. If Products contain third party warranties, Seller hereby assigns such warranties to VIAMI and its customers and upon request shall provide details of such warranties to VIAMI and its customers. Products failing to comply with applicable warranties will be, at VIAMI's option, (I) returned for a full refund or credit of amounts paid by VIAMI for the defective Product, (II) repaired, (III) replaced or (IV) re-performed by Seller, at no cost or expense to VIAMI or its customers and with shipping and transportation costs and risk of loss and damage in transit borne by Seller. Repaired and replaced Products shall be warranted as set forth in this clause. The above warranties, together with Seller's service warranties and guarantees, if any, survive inspection, test, acceptance of and payment for the Products and enure to VIAMI, its customers and their respective successors and assigns.

**10. Epidemic Failure:** An Epidemic Failure shall be deemed to have occurred where more than two percent (2%) of any Product sold to VIAMI fails in substantially the same manner within a time period of ninety (90) days, occurring anytime within the ten (10) year period after the Products are shipped to the delivery location specified by VIAMI. In the event of an Epidemic Failure, Seller shall, at its cost, provide support services as required by VIAMI and, if deemed necessary by VIAMI, at Seller's cost, implement an engineering change to correct the problem giving rise to the Epidemic Failure. VIAMI shall have the right to reject further deliveries of such Product without liability. In addition, without limitation, in relation to all affected Products, (whether already sold to VIAMI customers or stocked at VIAMI or authorized subcontractor facilities and, whether or not such Products have in fact failed), as directed by VIAMI at its option and sole discretion, Seller shall pay VIAMI a full refund or credit, perform repair services, and/or provide replacement Products, all at Seller's cost, together with Seller compensating VIAMI for any and all costs, expenses, damages and/or liabilities related to the Epidemic Failure, including, without limitation, VIAMI end-customer costs associated with Product and customer product removal and reinstallation.

**11. Capacity Shortage:** In the event Seller experiences a capacity shortage or other impairment of its ability to provide Products ordered by VIAMI, Seller shall allocate production capacity to

VIAVI on the same basis as Seller allocates capacity to its best customer(s) ordering like volumes of similar products. Seller shall notify VIAVI promptly in writing with respect to any anticipated capacity shortage, and shall provide VIAVI with timely updates during any capacity shortage.

**12. Right Of Entry:** VIAVI may, with two (2) business days prior notice to Seller, enter the premises of Seller during Seller's normal business hours to verify Seller's compliance with Section 3 (Pricing Commitment), to perform an inspection or quality review with respect to performance of the work and/or provision of Products pursuant to a PO, and/or assess conformance to the Responsible Business Alliance (RBA) Code of Conduct.

**13. Onsite visits:** If providing services to VIAVI, Seller shall comply and ensure that its employees and agents comply with the information that is provided by Seller to VIAVI on supplier qualification questionnaires and any additional rules and regulations established by VIAVI for non-employees as advised from time to time by VIAVI, including without limitation, environmental, health and safety rules, security rules and regulations whenever Seller is in or upon VIAVI premises.

**14. Compliance:** Seller, and the Products, shall comply with all legal regulations, ordinances, decrees, orders, laws, and other rules and regulations, including without limitation the RBA Code of Conduct and all rules, regulations and provisions relevant to health, safety, human rights, labor, ethics, and the environment (including without limitation the restrictions on materials set forth in the EU Council Directives 2011/65/EC and EU 2015/863 (RoHS) and other country-specific RoHS requirements, the restriction and notification of substances set forth in EU Regulation EC 1907/2006 (REACH) and the procurement of minerals from areas of conflict). Seller shall commit to conducting due diligence on the origin and chain of custody of minerals in accordance with OECD to ensure that smelters and refiners in their supply chain sourcing minerals from conflict-affected and high-risk areas are either compliant with the Responsible Minerals Assurance Process assessment protocols or are actively working towards becoming compliant. Seller shall cooperate fully with VIAVI's efforts to demonstrate compliance including providing VIAVI with a written declaration of compliance upon VIAVI's request. Seller shall also provide VIAVI with a full material declaration upon VIAVI's request and shall advise VIAVI if the chemical content of their product changes. Seller shall also provide a RMI Conflict Minerals Reporting Template upon VIAVI's request. Any service required to achieve compliance hereunder shall be included in the price of the Products.

**15. Export Restrictions and Import Requirements:** Seller shall comply with all export laws, rules, policies and procedures of the applicable government and other competent authorities and the requirements and recommendations of the U.S. Customs Trade Partnership Against Terrorism. VIAVI products, software, and technology are subject to U.S. export control laws and regulations, and may be subject to export or import regulations in other countries. Seller shall not transmit, export, re-export or transfer, directly or indirectly, separately or as part of any system, the Products, any VIAVI products, software and/or technology, or any technical data (including processes and services): (i) in violation of any applicable laws or regulations of the United States or the country where VIAVI products, software, or technology was legally obtained; and/or (ii) without first obtaining any license required by the applicable government, including without limitation, the United States Government and/or any other applicable competent authority. Seller certifies that no materials or technical data supplied by VIAVI will be sold or otherwise transferred to, or made available for use by or for, any entity that is engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology. In advance of shipment, Seller shall provide VIAVI with: (a) all applicable governmental trade product classifications necessary to facilitate trade (i.e. Harmonized Tariff Schedule and the U.S. Export Commodity Classification Number); (b) proper product and carton "Origin Markings" in accordance with applicable regulations (with notification of any and all changes thereto as soon as they occur); and (c) the necessary certifications if Product is eligible for preferential trade programs (i.e. NAFTA, General Systems of Preferences, Duty Drawback, 9801). Seller represents that it: (I) is not a person, entity, organization or other party identified on the U.S. Department of Commerce's Denied Persons or Entity List, the U.S. Department of Treasury's Specially Designated Nationals or Blocked Persons Lists, or the Department of State's Debarred Parties List, as published and revised from time to time; (II) will not transfer VIAVI products, software, technology, or technical data to a "foreign national" having a last citizenship or permanent residency of Iran, Crimea Region of Ukraine, Cuba, North Korea or Syria; and (III) in order to comply with U.S. export control laws and regulations on VIAVI controlled technologies, Seller agrees that it will not assign any unprotected foreign national to work on VIAVI projects unless Seller has: (A) identified the unprotected foreign national to VIAVI; (B) provided VIAVI with all information necessary for VIAVI to make an export licensing determination; and (C) has received from VIAVI permission to assign such unprotected foreign national to VIAVI's work. For the purposes of this section, the term "foreign national" is defined as any person who is not a citizen of the United States, a lawful permanent resident of the United States, or a protected individual as defined by 8 U.S.C. 1324b(a)(3).

**16. Export Controls for Services provided by Employees and/or Contractors of Seller:** Seller will screen all potential individual contractors and/or service providers in accordance with the Deemed Export Requirements issued pursuant to US Export Administration Regulations, the International Traffic in Arms Regulations and OFAC Regulations that may be applicable to VIAVI, and will not refer any such contractor or service provider individual who is a citizen or permanent resident of any of the countries for which an export license is required. Seller will indemnify, defend and hold harmless VIAVI against any and all liability in the event that Seller provides to VIAVI any individual who is a citizen or permanent resident of any of the countries for which an export license is required.

**17. Other Terms:** Seller shall procure all necessary permits, licenses, consents and certificates required by the applicable government, municipality and other political subdivisions thereof.

Seller shall warrant that Seller and its manufacturing facilities (i) do not engage in the use of child labor or forced labor; and (ii) pay wages that meet legal standards; and that wages and benefits are rendered in full compliance with applicable laws.

**18. Indemnity:** Seller agrees to indemnify and hold harmless VIAVI, its affiliates and customers and their respective directors, officers, employees, agents, subcontractors and other representatives (for purposes of this Section 18, collectively "VIAVI") from any and all loss, damage, liability, cost (including reasonable solicitors' fees), penalty or any other expense of whatever nature (collectively "Claims") arising out of: (i) any act or omission of Seller (including negligence) directly or indirectly relating to the PO, the use or sale of the Products, whether alone or in combination, or work performed pursuant to the PO; and/or (ii) Seller's breach of this Agreement. The foregoing includes without limitation any Claims relating to allegations, actions or proceedings for breach of contract, in tort (including negligence), intellectual property infringement, any statutory, regulatory or other legal claims, and/or claims for bodily injury (including death) and/or damage to property.

**19. Insurance:** Seller shall, at its own expense, at all times during any period of performing work, either at VIAVI or elsewhere, provide and maintain in effect those insurance policies and minimum limits of coverage designated below (all dollar figures in United States currency) with reputable and solvent insurance companies authorized to do business in the nation, state, territory or province in which work is being performed, or as otherwise reasonably acceptable to VIAVI, and will comply with all those requirements stated herein:

- **Workers' Injury and Related Insurance:** Seller must maintain Workers' Injury insurance and Social Insurance as required by and in accordance with the provisions of any applicable law or regulation of the nation, state, territory or province having jurisdiction over Seller's employees, and Employer's liability insurance with a minimum limit of not less than the local currency equivalent of Five Hundred Thousand (USD \$500,000).
- **General Liability and Products Liability Insurance:** Seller must maintain Public liability, Ordinary liability, Consolidated liability, Products Liability or equivalent insurance, covering all operations by or on behalf of Seller, and including coverage for bodily injury, property damage, products/completed operations liability, Seller's indemnity obligations pursuant to this Agreement, and claims by one insured against another insured, with minimum limits of coverage of the local currency equivalent of One Million Dollars (USD \$1,000,000) per occurrence or per claim. By endorsement or otherwise, such insurance shall either (1) include VIAVI, its parent, subsidiaries and any affiliates, and their respective officers, directors, shareholders, employees and agents as additional insureds, and apply to such additional insureds as primary insurance without a right of contribution, or (2) contain an indemnity to principals clause providing that coverage will be extended to principals of the named insured for those liabilities or damages for which the named insured is obligated to indemnify such principals pursuant to a contract or agreement and note the interests of VIAVI, its parent, subsidiaries and affiliates, and their respective officers, directors, shareholders, employees and agents as principals, and apply to such principals as primary coverage without a right of contribution. If the insurance is maintained on an "occurrence" basis, such insurance shall be maintained for a minimum of one year after completion of delivery or performance of services. If maintained on a claims-made basis, such insurance shall be maintained for a minimum of three years after completion of delivery or performance of services.
- **Business Automobile Liability Insurance:** Seller must maintain automobile liability insurance covering bodily injury and property damage liability, including coverage for all owned, non-owned, and hired vehicles used by Seller in performance of its obligations hereunder, with a minimum combined single limit of the local currency equivalent of One Hundred Thousand Dollars (USD \$100,000) per occurrence, or whatever is required by local law or statute, whichever is higher. If injury to third-party passengers of such vehicles is not covered by the insurance, then Seller shall also maintain separate insurance to cover injury to such passengers.
- **Professional Indemnity Insurance:** If Seller is to perform any customized software programming or hardware design services or to provide professional services, advice or opinions (including, but not limited to accounting, legal, advertising/marketing, engineering, or similar professional services), Supplier must maintain professional liability/ indemnity insurance for negligent acts, errors and omissions with a minimum limit of the local currency equivalent of One Million Dollars (USD \$1,000,000) per occurrence or per claim. Such coverage must be maintained for a minimum period of three years after performance of the work.

Seller shall ensure that VIAVI, its parent and subsidiaries including any affiliates, its officers, directors, agents, employees and shareholders, are named as additional insureds to Seller's Public Liability Insurance. Certificates of Insurance including endorsements evidencing the insurance maintained by Seller shall be furnished to VIAVI upon request, and within a reasonable time after such coverage is renewed or replaced. Seller shall provide VIAVI with thirty (30) days prior written notice in the event of cancellation, non-renewal or reduction in coverage that causes Seller to no longer be in compliance with any of the requirements set forth in this Section 19. Nothing in this Section 19 shall be deemed to preclude Seller from selecting a new insurance carrier or carriers or obtaining new or amended policies at any time, as long as the above insurance coverage is maintained. Seller will furnish VIAVI with applicable certificates of insurance from time to time upon reasonable request. Except to the extent prohibited by law and except with respect to Seller's professional indemnity insurance, Seller shall require its insurers to waive all rights of recovery or subrogation against VIAVI, its parent, subsidiaries and affiliates, and their respective officers, directors, shareholders, employees, agents and insurers, but only to the extent of liabilities falling within Seller's indemnity obligations pursuant to the

terms of this PO. Nothing contained in this Section 19 shall be interpreted to limit or relieve Seller of its other duties and obligations under the terms and conditions of this PO, including but not limited to Seller's defense and indemnity obligations.

**20. Confidential Information:** Seller acknowledges that certain information provided by VIAVI in connection with the PO is confidential in nature. Confidential Information means any business, marketing, technical, scientific, financial or other information, specifications, designs, plans, drawings, software, prototypes or process techniques of VIAVI, an affiliate or other third party, which at the time of disclosure, is reasonably understood to be confidential in nature, including the identity of the parties and the fact that the parties are in contact with each other (collectively, "Confidential Information"). Seller shall hold Confidential Information in confidence and shall not disclose Confidential Information to third parties. Confidential Information does not include information that: (i) is or becomes publicly available through no fault of the Seller; (ii) is lawfully disclosed to the Seller by a third party who is not under any obligations of confidence; (iii) Seller can establish was known to the Seller prior to the date of disclosure by VIAVI; (iv) is required by law to be disclosed; or (v) Seller can establish was developed independently by the Seller without the use of VIAVI's Confidential Information. Seller may only use Confidential Information for the purpose of fulfilling its obligations under the PO. Seller shall, upon written request by VIAVI, promptly return and/or destroy and certify as destroyed all Confidential Information in its possession or control, as well as all material which incorporates any Confidential Information. Seller shall not disclose, without the prior written consent of VIAVI, any Confidential Information to any third party other than its employees and contractors under similar obligations of confidence who have a need to know such information. Seller shall assume full responsibility and shall indemnify and hold VIAVI harmless for the unauthorized disclosure or use of any Confidential Information by its employees, contractors or any other third party to whom Seller discloses Confidential Information. All obligations of confidentiality and non-disclosure set forth in the PO survive, without limitation, the expiration or earlier termination of the PO. Where the parties have entered into a separate non-disclosure agreement which covers the subject-matter of the PO, that non-disclosure agreement, to the extent applicable, shall supersede this Section.

**21. Return of Materials:** Promptly upon termination of the Agreement, for any reason whatsoever, or at any time, at the request of VIAVI, Seller shall deliver to VIAVI all property or materials within its possession or control which belong to VIAVI or its affiliates or which contain or are based upon Confidential Information (including notes, presentations, reports, charts, spreadsheets and other documents which contain or reflect Confidential Information), or, upon VIAVI's election, destroy such property or material and provide written certification that all such property and material containing or based upon Confidential Information was returned or destroyed. If Seller is required to disclose any Confidential Information pursuant to any judicial or governmental requirement or order, Seller may do so, provided that (1) Seller has given VIAVI sufficient prior written notice of such requirement or order to permit VIAVI a reasonable opportunity to object or seek a protective order, or other appropriate remedy, (2) Seller reasonably cooperates with VIAVI so that it may object or seek a protective order or other appropriate remedy, and (3) Seller in any event discloses only that portion of the Confidential Information that is legally required to be disclosed by a court of competent jurisdiction or other governmental authority or otherwise as required by law, regulation or legal process.

**22. Computer Access:** If it is necessary for an employee or representative of Seller to have access (either on-site or remotely) to and use any VIAVI computer systems in performing any services under the Agreement, Seller shall limit such access and use solely to perform work directly applicable to such and shall not access or attempt to access any computer files, software or computer services other than as specifically authorized. Seller shall limit such access to those employees of Seller with an express requirement to have such access in connection with performance of the services under the Agreement, shall advise VIAVI in writing of the names of each person who will have such computer access, and shall strictly follow all VIAVI security rules and procedures for restricting access to VIAVI computer systems. All identification numbers and passwords disclosed to Seller and any information obtained by Seller as a result of Seller's access and use of VIAVI computer systems constitutes confidential and proprietary information of VIAVI and shall be treated in strictest confidence by Seller. VIAVI and Seller shall cooperate in the investigation of any apparent unauthorized access to any VIAVI computer system.

**23. Personally Identifiable Information:** Seller represents and warrants that it continuously takes reasonable precautions to protect any personal information of its customers, or the employees or potential employees of its customers, from loss, misuse and unauthorized access, disclosure, alteration and destruction. Such precautions will, at a minimum, include taking physical security measures designed to prevent unauthorized access to database equipment and hard copies of personal information, electronic security measures that continuously monitor access to servers and provide protection from hacking or other unauthorized access from remote locations (including the use of firewalls, restricted access and encryption technology), and limiting access to personal information and data to those persons in Seller's organization that have a specific business purpose for maintaining and processing such personal information and data.

**24. Personal Data Processing:** The Seller warrants and covenants that in carrying out the Processing Activities on Personal Data it: (i) shall not disclose any Personal Data save where this is lawful and in a form which is lawful; (ii) shall ensure that the sharing of Personal Data pursuant to this Agreement is carried out in accordance with any data protection, privacy or other notices; (iii) shall not carry out the Processing Activities on Personal Data other than in accordance with applicable law, including Data Protection Law. In the event of a change in Data Protection Law that is likely to have a material adverse effect on Seller's compliance with this Agreement or in the event Seller otherwise cannot comply with relevant Data Protection Law for whatever reason(s), Seller shall notify VIAVI within 72 (seventy-two) hours following discovery

of the Data Protection Law or other event causing Seller to be non-compliant; (iv) if requested by VIAVI, within ten (10) business days from the receipt of a request from VIAVI, shall furnish VIAVI with all materials reasonably necessary for VIAVI to confirm that Seller has complied with its obligations as set forth in this Agreement with respect to Personal Data. In the event of a breach of any warranty in this Section, the Seller shall without charge and without delay, repair, replace, re-perform or modify the applicable services, Products and/or deliverables, as the case may be, so as to correct such breach or default. In the event Seller fails to promptly repair, replace, re-perform or modify the services, Products and/or deliverables, as the case may be, within ten (10) days, VIAVI may forthwith terminate the Agreement in whole or in part for breach of a material obligation or terminate any PO or release issued hereunder.

For the purposes of the Agreement the following terms shall have the following meaning:

(i) "Data Protection Law" means any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution issued or enacted by any domestic or foreign, national, supra-national, state, county, municipal, local, territorial or other government or bureau, court, commission, board, authority, or agency, anywhere in the world, relating to data security, data protection and/or privacy, including the EU General Data Protection Regulation 2016/679 and the California Consumer Privacy Act of 2018 (California Civil Code §§ 1798.100 to 1798.199).

(ii) "Personal Data" means any information relating to an identified or identifiable natural person or persons. In the context of the Agreement, Personal Data includes the name, email address, work address, telephone number and other contact details of VIAVI employees or of VIAVI's customers and network data of VIAVI's customers.

(iii) "Processing Activities" means any operation or set of operations that is performed on Personal Data, whether or not by automatic means, including, but not limited to, obtaining, developing, producing, collecting, recording, organizing, structuring, accessing, using, adapting, altering, modifying, retrieving, consulting, copying, reproducing, analyzing, disclosing, disseminating, making available, aligning, combining, blocking, restricting, transmitting, transferring, selling, renting, storing, retaining, destroying, deleting, or erasing such Personal Data.

**25. Data Security:** Seller represents and warrants that at all times it maintains network security and network access controls that, at a minimum, include network firewalls and regular (quarterly or annual) information security reviews. Seller agrees to protect and maintain the security of VIAVI information, including any personally identifying information of VIAVI employees, customers or suppliers. Security measures shall include maintaining secure systems that are patched and up-to-date with all appropriate security updates as designated by system vendor notifications. Seller agrees that any and all transmission or exchange of system application data with VIAVI shall take place via secure means in accordance with VIAVI specifications. Seller agrees that any and all VIAVI data will be stored, processed, and maintained solely on designated target systems and that no VIAVI data at any time will be processed on or transferred to any other target systems. Systems containing VIAVI data shall be backed up, in accordance with data encryption specifications, to ensure data availability and integrity. Seller agrees to store all VIAVI Confidential Information in encrypted form, using no less than a 128 bit key. Seller agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Seller. Seller further agrees that no VIAVI data of any kind shall be transmitted, exchanged or otherwise passed to other third parties without VIAVI written authorization.

**26. No Publicity:** Seller shall not use the VIAVI name, trademarks, or the name or marks of any of its affiliates in any public statement or publicize the fact the parties are doing business, without the prior written consent of VIAVI.

**27. Ownership:** In exchange for the consideration provided to Seller hereunder VIAVI shall: (i) have free title to, and all ownership interest in the Products and any reports or other deliverables provided by Seller in connection with the PO; and (ii) own all intellectual property rights in any software, specifications, inventions (whether patentable or not) and processes created for VIAVI under the PO, including the copyright in any original works fixed in any tangible medium of expression which were created for VIAVI. For Seller-owned or licensed intellectual property in any deliverables delivered hereunder, Seller hereby grants to VIAVI a worldwide, non-exclusive, fully paid-up, perpetual, irrevocable, royalty-free, sub-licensable, transferable license to such intellectual property to use, make, have made, sell, import, modify, reproduce, translate, distribute such deliverables, in whole or in part, internally and/or to any third party. In respect of any intellectual property vested in a third party, Seller shall obtain from such third party (at no cost to VIAVI or its customers) such permission, waiver or license as may be necessary for VIAVI to use the deliverables as described herein. Seller shall furnish and execute any additional documents as VIAVI may require to establish ownership by VIAVI of the copyright, patent or any other rights or interests resulting from the performance of the PO. All designs, tools, patterns, drawings, information, equipment or other material furnished by VIAVI hereunder shall be used only in the performance of Seller's obligations hereunder. All such material, and any rights thereto, shall remain the property of VIAVI, be kept confidential by Seller, and VIAVI shall at all times have the right to enter Seller's premises and remove such property without liability to Seller. Upon the completion or termination of the Agreement, all such property shall be returned to VIAVI in the form of finished parts or unused material. Seller bears all responsibility for loss, damage or destruction while property is within its possession or control. Property furnished by VIAVI is provided strictly "as is" with no warranty whatsoever.

**28. Trade-Marks And Logos:** Seller shall remove or obliterate any Identification prior to any use or disposition of any material rejected or not purchased by VIAVI. "Identification" means

any semblance of any trade name, trademark, service mark, insignia, symbol, logo, or any other designation or drawing of VIAVI or its affiliates.

**29. Liability:** TO THE GREATEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL VIAVI OR ITS AFFILIATES, THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR OTHER REPRESENTATIVES BE LIABLE TO SELLER FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT COSTS, EXPENSES OR DAMAGES INCLUDING WITHOUT LIMITATION LITIGATION COSTS, THE LOSS OF PRODUCTION OR PROFIT ARISING FROM ANY CAUSE WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES OR EVEN IF SUCH COSTS OR DAMAGES ARE ALLEGED TO ARISE FROM NEGLIGENT ACTS, OMISSIONS OR CONDUCT OF VIAVI OR ITS AFFILIATES, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS OR OTHER REPRESENTATIVES. TO THE GREATEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT SHALL VIAVI'S LIABILITY TO SELLER UNDER THIS AGREEMENT EXCEED THE AMOUNT PAID OR DUE TO SELLER FOR PRODUCTS DELIVERED IN ACCORDANCE WITH THIS AGREEMENT.

**30. Choice Of Law:** The construction, interpretation and performance of this Agreement are governed by the laws of the People's Republic of China, without regard to conflicts of laws principles. The parties expressly exclude application of the United Nations Convention on Contracts for the International Sale of Goods.

**31. Assignment & Subcontracting:** Seller may not assign or transfer any right or obligations hereunder without the prior written consent of VIAVI. VIAVI may assign its rights and obligations under this Agreement without requiring any notice to or consent from Seller. This Agreement shall enure to the benefit of the permitted successors and assigns. Seller may not subcontract any of its rights or obligations under the Agreement without VIAVI's prior written consent. If VIAVI consents to the use of a subcontractor, Seller will: (i) guarantee and will remain liable for the performance of all subcontracted obligations; (ii) fully indemnify VIAVI for all damages and costs of any kind incurred by VIAVI or any third party and caused by the acts and omissions of Seller's subcontractors; and (iii) make all payments to its subcontractors.

**32. No Waiver:** Any delay by VIAVI in the exercise of any right or remedy provided herein shall in no event be deemed to be a waiver of such right or remedy. To be valid, any waiver by VIAVI must be made in writing expressly referencing the PO. A valid waiver of any right or remedy herein shall in no event be deemed to: (i) constitute a waiver of such right or remedy arising in the future or (ii) operate as a waiver of any other right or remedy.

**33. Severability:** If and to the extent that any of the terms of this Agreement become or are declared to be illegal by any court of competent jurisdiction, such terms shall be null and void and shall be deemed deleted from this Agreement, but only to the extent that such term is illegal, it being the intent and agreement of the parties that the Agreement shall be deemed amended by modifying such term to the extent necessary to make it legal while preserving its intent or, if that is not possible, by substituting therefore another term that is legal and achieves the same objective. All remaining terms of this Agreement shall remain in full force and effect.

**34. No Authority:** The parties to this Agreement are independent contractors. No relationship of principal to agent, master or servant, employer to employee or franchisor to franchisee is established hereby between the parties. Neither party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other party or bind the other party in any respect whatsoever. VIAVI neither assumes nor authorizes any third party, person or entity to assume or accept any liability or obligation, or to make any commitment for VIAVI with regard to the Products.

**35. Interpretation:** In this Agreement, unless a contrary intention appears: (i) the terms, "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular portion hereof and include any agreement supplemental hereto; (ii) words importing a singular number only shall include the plural and vice versa; (iii) the term "including" means "including without limitation"; (iv) other grammatical forms of defined words or expressions have corresponding meanings; (v) a reference to a section, document or agreement, including this Agreement, includes a reference to that section, document or agreement as amended from time to time, as permitted hereunder; and (vi) the division of this Agreement into sections and the insertion of headings are for convenient reference only, and shall affect neither the construction nor the interpretation of this Agreement.