



## GENERAL TERMS

### Terms for All Transactions

These General Terms apply to any quote, order, order acknowledgment, and invoice, and any sale, license or delivery of all products, software, or services by Inertial Labs Inc., a Viavi Solutions Inc. company ("INERTIAL LABS"). INERTIAL LABS does not accept, expressly or impliedly, and INERTIAL LABS hereby rejects and deems deleted, any additional or different terms or conditions that any potential or actual customer ("Customer") presents, including, but not limited to, any terms or conditions contained or referenced in any order, acceptance, acknowledgment, or other document, or established by trade usage or prior course of dealing, unless INERTIAL LABS expressly and unambiguously agrees to such terms and conditions in a duly signed writing. By ordering, accepting delivery, keeping, or using products or otherwise proceeding with any transaction after receipt of the Agreement (as defined below) or after otherwise being notified that such transactions are subject to the Agreement, Customer agrees to the terms of the Agreement. If tender of these terms is deemed an offer, acceptance is expressly limited to the terms of the Agreement.

#### 1. DEFINITIONS.

"Agreement" means a contract between INERTIAL LABS and the Customer that is formed by reference to these General Terms and, where applicable, one or more sets of INERTIAL LABS's offering-specific terms (e.g., Software License Terms or Fixed Fee Services Terms) that are attached hereto or available at [www.viavisolutions.com/terms](http://www.viavisolutions.com/terms) or from INERTIAL LABS on request.

"Confidential Information" means any technical or other information related to INERTIAL LABS's Goods and Services (including, but not limited to, any documentation, services offerings, training materials, and written, visual, and oral instructions) and any information that is marked or otherwise expressly identified as confidential in writing or that should have been reasonably understood as such due to its nature, regardless of whether in tangible, electronic, verbal, graphic, visual or other form, that INERTIAL LABS discloses to Customer. Confidential Information does not include material or information that (i) is generally known by third-parties as a result of no act or omission of Customer; (ii) subsequent to disclosure hereunder was lawfully received without restriction on disclosure from a third-party having the right to disseminate the information; (iii) was already known by Customer prior to receiving it from INERTIAL LABS and was not received from a third-party in breach of that third-party's obligations of confidentiality; or (iv) was independently developed by Customer without use of Confidential Information of INERTIAL LABS.

"Delivery Date" means the earlier of the date on which (i) INERTIAL LABS puts a Good into the possession of a carrier for shipment, (ii) Customer takes possession of a Good; or (iii) INERTIAL LABS makes the Good available to Customer.

"Documentation" means INERTIAL LABS's information manuals that (i) contain operating instructions and performance specifications for the Products, Software, and/or Services; (ii) INERTIAL LABS delivers to Customer with the Products, Software, and/or Services; and (iii) INERTIAL LABS generally makes available to all users of its Products, Software, and/or Services.

"Firmware" means firmware and software that is (i) installed on tangible products, including back-up copies of such software that are delivered with such tangible products, and (ii) not referred to by INERTIAL LABS with individual product numbers and line item prices.

"Goods" means Products, Software and Documentation.

"Intellectual Property" means any computer program or routine (in object code, source code, or embedded format, regardless of the medium on which it resides), algorithms, know-how, firmware, hardware and/or software configurations, inventions, documentation, translations, text and other works of authorship, data, databases, information, mask works, designs, utility models, symbols, logos, marks, names, procedures, processes, methods, improvements and any other intangibles as well as the prototypes, samples, copies, and other materialized forms of the foregoing intangibles.

"Product" means any tangible products or parts thereof that INERTIAL LABS agrees to deliver or delivers to Customer including any Firmware.

"Proprietary Rights" means any and all rights, title, ownership and interests in and to copyrights, mask work rights, industrial designs, trademarks, service marks, trade names, trade secrets, patents, and any other rights to Intellectual Property, recognized in any jurisdiction or country of the world, whether or not registered or perfected.

"Services" means any services provided by INERTIAL LABS, including without limitation, any Installation Services, Training Services, Software Maintenance Services, Time & Materials Services, and/or Fixed Fee Services, as applicable (such terms as defined in the applicable offering-specific terms).

"Software" means any computer software in object code, source code, or other format that INERTIAL LABS agrees to deliver or make available to Customer, excluding Firmware. For greater clarity, no licenses under these General Terms shall extend to any source code.

"Work Product" means any tangible or intangible results or deliverables that INERTIAL LABS agrees to create or deliver, or intentionally delivers to Customer, as a result of performing services, including, but not limited to, configurations, computer programs or other information, or customized hardware, and any Intellectual Property developed in connection therewith and Proprietary Rights related thereto.

2. **ORDERING.** INERTIAL LABS's quotations (unless they expressly specify otherwise) and Customer's orders are irrevocable for thirty (30) days from their respective date. Customer's orders are subject to acceptance at INERTIAL LABS's sole discretion. No form of acceptance, except INERTIAL LABS's written acknowledgment sent to Customer or INERTIAL LABS's commencement of performance, shall constitute valid acceptance of Customer's orders, with any such acceptance being expressly conditioned on assent to the terms hereof and the exclusion of all other terms. INERTIAL LABS may change its prices at any time without prior notice to Customer, but such change shall not affect any quotation that has been outstanding for less than thirty (30) days or any order that INERTIAL LABS has expressly accepted in writing or through performance (whereby partial performance constitutes only partial acceptance to the extent performed). INERTIAL LABS is entitled to apply special handling fees and surcharges relating to supply chain constraints or fuel increases. Any such special fees or surcharges will be reflected on a INERTIAL LABS quotation or invoice. Once INERTIAL LABS has accepted an order, Customer may not cancel, terminate, reschedule, suspend performance of, or issue a hold on, such order, in whole or in part, without the prior written consent of INERTIAL LABS, which consent, if given, shall:

(i) be upon terms as set forth below that will compensate INERTIAL LABS for any loss or damage therefrom, including but not limited to any work in process or services performed, the price of Goods and Services shipped to, manufactured for, or held separately for, Customer, and loss of profits, incurred costs, and a reasonable allocation of general and administrative expenses.

(ii) entitle INERTIAL LABS to apply, at INERTIAL LABS's option, a daily storage fee of 1% of the purchase order value up to a maximum of \$500 per day where INERTIAL LABS accepts in writing a Customer request to reschedule a shipping or collection date later than previously committed by INERTIAL LABS order acknowledgement ("Rescheduled Delivery Date"). Examples include where Customer is requesting INERTIAL LABS to delay shipment or collection to a future INERTIAL LABS fiscal quarter, or by greater than thirty (30) days within the current INERTIAL LABS fiscal quarter. Daily storage fees shall commence the day following the date initially committed by INERTIAL LABS order acknowledgement up to the day of any Rescheduled Delivery Date agreed by INERTIAL LABS. INERTIAL LABS also reserves the right to refuse any reschedule request once an official order acknowledgement has been issued. No storage fee is charged where INERTIAL LABS reschedules a shipping date.

If INERTIAL LABS consents to an order cancellation before the order has shipped, INERTIAL LABS reserves the right to charge Customer a cancellation fee of 20% of purchase price of the cancelled order. If INERTIAL LABS consents to an order cancellation after the order has shipped, INERTIAL LABS reserves the right to charge Customer a restocking fee for standard Goods of 30% of the purchase price of the returned Goods with a minimum charge of \$50. Refunds, if any, will be issued as credit notes.

3. **DELIVERY.** Customer must specify delivery address on its Purchase Order. For FCA INERTIAL LABS Facility (Incoterms 2020) orders, Customer must specify a freight carrier within twenty-four (24) hours after the receipt of the packaging details (number of boxes, dimensions, weights). If Customer fails to provide a freight carrier along with written shipping instructions, INERTIAL LABS reserves the right to select a carrier and to prepay shipments and the cost of carrier will be added to the Customer invoice. The carrier shall not be considered INERTIAL LABS's agent. INERTIAL LABS shall deliver all Goods and Services FCA INERTIAL LABS's facility (Incoterms 2020), as designated by INERTIAL LABS. Customer takes title

and bears shipping costs and risk of loss from the FCA point of shipment. INERTIAL LABS does not transfer ownership or title to any Software, Firmware, Documentation, or copies thereof; INERTIAL LABS only grants limited, non-exclusive licenses, as provided herein. Partial and installment shipments are authorized. Goods may be delivered individually upon availability and will be accepted and paid without right of return or refund of the delivered Goods, independent of the timing of any undelivered future Goods or Services included in the Customer's order. Alterations to any Goods and Services which INERTIAL LABS deems necessary to comply with changed safety standards or governmental regulations, to make a Good or Service non-infringing, or to otherwise improve a Good or Service, may be made at any time by INERTIAL LABS without prior notice to, or consent of, Customer and such altered Goods and Services shall be deemed fully conforming. Immediately upon receipt, Customer shall visually inspect the shipment and notify INERTIAL LABS in writing of any deficiencies. Customer shall be deemed to have waived its rights to claim incorrect or incomplete delivery or packaging, unless INERTIAL LABS receives Customer's detailed written notice within ten (10) days following delivery of the Goods and Services by INERTIAL LABS. Performance and shipping dates specified or communicated by INERTIAL LABS to Customer are approximate dates only and (i) the failure to perform or ship on such dates shall not be considered a breach by INERTIAL LABS, and/or (ii) INERTIAL LABS is permitted to deliver, and Customer will accept, shipments, in whole or in part, in advance of any dates communicated by INERTIAL LABS and/or requested by Customer. INERTIAL LABS may ship to the delivery address on the Purchase Order without further confirmation from Customer.

**4. NO INSTALLATION.** INERTIAL LABS is not obligated to customize or install any Goods and Services, unless INERTIAL LABS expressly agrees otherwise in a signed writing, in which case (i) INERTIAL LABS's Installation Services Terms shall apply additionally, and (ii) INERTIAL LABS's obligations with respect to such services shall be separate and independent of INERTIAL LABS's obligations with respect to the delivery of Goods and other Services.

**5. RENTAL OF PRODUCTS.** Any quote, order, order acknowledgement, and invoice, provided to Customer by INERTIAL LABS for the provision of Product rentals, shall be subject to the applicable rental terms and conditions available at [www.viavisolutions.com/terms](http://www.viavisolutions.com/terms) in addition to these General Terms and/or Software Support Terms and Conditions and/or Software License Terms, also available at [www.viavisolutions.com/terms](http://www.viavisolutions.com/terms) or available upon request.

**6. PAYMENT.** Subject to credit approval by INERTIAL LABS, which INERTIAL LABS may modify, revoke or subject to conditions (e.g., approved letter of credit) at any time, Customer shall pay, or in the event a third-party financing entity is involved in a transaction Customer shall do everything necessary to ensure such entity shall pay, all INERTIAL LABS submitted invoices in full within thirty (30) days of the invoice date, without any deductions, withholdings, or off-set. In the event a third-party invoicing entity fails to pay INERTIAL LABS's invoices in accordance with the terms contained herein then Customer shall become responsible to INERTIAL LABS for the immediate payment of such invoices and any liability resulting from any such non-payment. Unless INERTIAL LABS expressly states otherwise, all fees and prices quoted or invoiced exclude sales taxes, service taxes, withholding taxes, customs duties, and other taxes and charges, insurance, and costs related to transportation under Section 3 and special packaging requested by Customer, if any, with any such charges, taxes and/or costs being paid or reimbursed by Customer. If any withholding taxes apply, Customer shall gross up the invoiced amount to ensure that, after such withholding, INERTIAL LABS receives the full amount invoiced. Customer is responsible for and agrees to pay charges billed to INERTIAL LABS for corrections made by the carrier including address corrections. If INERTIAL LABS does not receive all amounts when due (i) any due and unpaid portion of the fees shall bear interest in the amount of one and one half percent (1.5%) per month (annual rate 19.56%) or the maximum rate allowed by law, whichever is less, (ii) INERTIAL LABS may immediately suspend deliveries, licenses and/or performance of any Goods and/or Services, and (iii) INERTIAL LABS may require payment in advance for any subsequent orders or deliveries and/or further performance. At INERTIAL LABS's request, Customer shall provide an irrevocable letter of credit from a financial institution and with terms reasonably acceptable to INERTIAL LABS. All amounts are due in U.S. currency, unless INERTIAL LABS specifies otherwise in writing, e.g., a quotation or invoice. All sales are final.

## **7. INTELLECTUAL PROPERTY CLAIMS.**

**7.1 Claims.** INERTIAL LABS will defend or settle any third-party claim against Customer that Goods and Services (excluding Build to Print Products as defined in Section 11.3) as delivered by INERTIAL LABS infringe a third-party's copyright, trade secret right or U.S. patent provided Customer promptly notifies INERTIAL LABS in writing and cooperates with and provides control of the defense or settlement to INERTIAL LABS, to the extent legally permissible.

**7.2 Remedies.** In the event of an infringement claim under Section 7.1 (Claims), INERTIAL LABS will pay (i) infringement claim defense costs, and (ii) 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 to INERTIAL LABS for the Goods and/or Services at issue. If such a claim appears likely, INERTIAL LABS may, at its option, modify the Good or Service, procure any necessary license, or replace it. If INERTIAL LABS determines that none of these alternatives is reasonably available, INERTIAL LABS will, subject to Customer's return of the Goods or Services upon request by INERTIAL LABS, provide a prorated refund of the fees that Customer paid for such Goods or Services, depreciated on a 36 month (Software) or 60 month (Product) linear basis.

**7.3 Exclusions.** INERTIAL LABS has no obligation for any claim of infringement arising from: (i) INERTIAL LABS's compliance with, or use of, Customer's designs, specifications, instructions or technical information; (ii) Goods and Services modifications by Customer or a third-party; (iii) Goods and Services not used as expressly provided within the Documentation, INERTIAL LABS's specifications or related application notes; or (iv) use of the Goods and Services with products not supplied by INERTIAL LABS. This Section 7 states INERTIAL LABS's entire liability, and Customer's sole remedy for infringement claims. Additionally, the Customer shall ensure that where any of the aforementioned in (i) is provided to INERTIAL LABS then it shall ensure it either owns or has secured any and all licenses necessary for INERTIAL LABS to use and shall indemnify INERTIAL LABS for any liability it incurs through its use of the same.

## **8. LIMITATION OF LIABILITY.**

**8.1 Limitations.** IN NO EVENT SHALL INERTIAL LABS 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 INERTIAL LABS 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 GOODS OR SERVICES PRINCIPALLY RESPONSIBLE FOR SUCH DAMAGES WITHIN THE LAST 12 MONTHS PRECEDING THE CLAIM UNDER THIS AGREEMENT. IN ADDITION TO THE FOREMENTIONED, INERTIAL LABS DOES NOT GUARANTEE THE ACCURACY OF AND SPECIFICALLY DISCLAIMS ANY AND ALL LIABILITY FOR ANY OUTPUT GENERATED BY ARTIFICIAL INTELLIGENCE AND / OR MACHINE BASED LEARNING CAPABILITIES WHICH MAY BE INCORPORATED INTO OUR GOODS OR SERVICES.

**8.2 Scope.** THE LIMITATIONS OF LIABILITY IN SECTION 8.1 (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 INERTIAL LABS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE UNDER THESE GENERAL TERMS OR ANY OFFERING-SPECIFIC TERMS FAIL OF THEIR ESSENTIAL PURPOSE.

**9. CONFIDENTIAL INFORMATION.** Customer will protect the secrecy of Confidential Information with due care. Customer will not (i) disclose Confidential Information to anyone, except to persons in its own organization who have a need to know in order to fulfill Customer's obligations or exercise Customer's express rights under the Agreement and who are bound by non-disclosure obligations requiring them to keep the Confidential Information secret; and (ii) use Confidential Information except as necessary for the performance of Customer's obligations or the exercise of Customer's express rights under the Agreement.

## **10. RIGHTS IN INTELLECTUAL PROPERTY AND TOOLING.**

**10.1 All Rights Reserved.** Except as expressly agreed otherwise in writing, INERTIAL LABS and its licensors reserve all rights, title and interests, including Proprietary Rights, to (i) any Software, Firmware and/or Documentation, and (ii) all Intellectual Property in and/or related to the Goods and Services. Software, Firmware and Documentation are licensed, not sold. The use of a copyright notice on any Good or Service shall not be taken to indicate that it has been published. All right, title and interest in and to any Work Product, Intellectual Property and/or Proprietary Rights, whether or not subject to statutory protection, which are made, created, developed, written, conceived or first reduced to practice by INERTIAL LABS 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 INERTIAL LABS.

**10.2 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 Goods or portions thereof nor allow or assist

others to do so.

**10.3 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 General Terms or any other terms of the Agreement, included, but not limited to, reverse engineering, Customer agrees to refrain from exercising such rights unless and until Customer has given INERTIAL LABS three (3) weeks' prior written notice of Customer's intent to exercise any such rights and INERTIAL LABS has not offered reasonable alternatives to Customer's exercise of the mandatory rights within such three (3) week period.

**10.4 Marks and Labels.** Customer acknowledges the goodwill associated with INERTIAL LABS'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 Goods and Services, related documentation or packaging, without the express prior written consent of INERTIAL LABS. Customer shall display INERTIAL LABS's and its licensors' names and logos as well as the name of any Goods and Services on each copy of Software or Documentation made by Customer (provided that Customer shall not make any copies except as permitted by INERTIAL LABS in a duly signed writing).

**10.5 Firmware License.** Subject to the terms and conditions of this Agreement, INERTIAL LABS 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; INERTIAL LABS 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 INERTIAL LABS and/or its third party licensors which will apply to the use of the Firmware, and take precedence over these license terms.

**10.6 Documentation License.** INERTIAL LABS grants Customer a non-licensable, non-exclusive, non-transferable, limited license to use the Documentation that INERTIAL LABS provides for Customer's internal business purposes solely in support of Customer's use of the Goods and Services. Customer is not authorized to copy or modify Documentation, except as expressly permitted by INERTIAL LABS in a duly signed writing.

## 11. LIMITED PRODUCT WARRANTY AND DISCLAIMER.

This Section 11 applies only if and to the extent Customer orders or INERTIAL LABS delivers Products, but not, for example, if and to the extent Customer orders Software or Services.

**11.1 Limited Product Warranty.** Notwithstanding any provision to the contrary (but subject to the operation of any law to the extent it cannot be excluded), INERTIAL LABS's sole and exclusive obligations to Customer for any Product made by INERTIAL LABS and sold hereunder are solely as described in this Section 11.1 and Section 11.2 below, with such obligations being limited solely to any Product which has been returned to INERTIAL LABS under the RMA procedure (as defined in Section 13) and which in the reasonable opinion of INERTIAL LABS is determined to be defective in workmanship, material or not in compliance with the INERTIAL LABS specification applicable to the Product and has in fact failed under normal use on or before the specific Product warranty periods set forth at [www.viavisolutions.com/en-us/services-and-support/support/warranty-terms-and-conditions](http://www.viavisolutions.com/en-us/services-and-support/support/warranty-terms-and-conditions) and incorporated herein by reference. All warranty periods as detailed on the aforementioned website shall begin on the Delivery Date as defined in Section 1, unless otherwise stated in writing by INERTIAL LABS in accordance with Section 14.3. All third-party products (including Software or Firmware) provided by INERTIAL LABS carry only the original manufacturer's warranty applicable to Customer. INERTIAL LABS 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 INERTIAL LABS 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 INERTIAL LABS to reproduce and analyze the failure.

**11.1.1 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 INERTIAL LABS as suited for use with the Product; (ii) Customer's failure to follow INERTIAL LABS'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 INERTIAL LABS or its authorized representatives; (vi) installation or maintenance of Product by someone other than INERTIAL LABS or persons

certified by INERTIAL LABS; (vii) being accidentally damaged, disassembled, modified, misused, repaired or reworked (by any party other than INERTIAL LABS 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) Force Majeure conditions as defined in Section 14.7 (Force Majeure).

**11.1.2 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 INERTIAL LABS, unless such modifications were directed or approved by INERTIAL LABS in writing and made in conformance with all specifications and instructions provided in such writing; (iii) Where applicable, customer has no warranty rights regarding prototypes, experimental, alpha, beta, field trial or unqualified products. Such products are undergoing the Product Development Process and are currently in the developmental stage. Specifications are preliminary and no guarantee of performance is provided. In addition, product specifications may change as the Product Development Process evolves until final release to production. The applicable product is a pre-manufacturing release item, and as such, the INERTIAL LABS Warranty provisions do not apply; (iv) any patches, updates, or revisions that INERTIAL LABS makes, at its sole discretion, available on its website or otherwise (for the avoidance of doubt, INERTIAL LABS is not obligated to make any patches, updates, or revisions available outside the scope of specific maintenance agreements); (v) build to print Product (other than provided in Section 11.3 – Build to Print) and any other Product that INERTIAL LABS provides in accordance with Customer's request, specifications, or instructions, unless INERTIAL LABS agrees in a duly signed writing that the provided Product shall be covered by the limited warranty specified in Section 11.1 (Limited Product Warranty); (vi) Product not returned in accordance with INERTIAL LABS's RMA procedure; and (vii) third party or Customer provided materials received by INERTIAL LABS in accordance with customer specifications. Additionally, to be clear, warranty rights do not include mandatory technical support (e.g. end-to-end case management, subject matter expertise via web and telephone support, in-region local language and time support). INERTIAL LABS technical support is provided under a service contract (which each customer must enter separately with INERTIAL LABS) and therefore, is treated by INERTIAL LABS as a category of service independent from warranty rights. To the extent that INERTIAL LABS provides access to technical support without a separate, valid support contract, it shall be at INERTIAL LABS's sole discretion and INERTIAL LABS may discontinue such technical support at any time. In such cases, incidents will be logged and tracked on a reasonable effort basis; INERTIAL LABS does not commit to resolving any incidents without a valid service contract. Committed service level response times are reserved for separately paid-for technical support service pursuant to contracts or standard support terms and conditions, as applicable, as defined therein.

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

**11.2 Exclusive Remedies.** If any Product materially fails to conform to the limited warranty set forth in Section 11.1 (Limited Product Warranty) and actually fails during the applicable warranty period and under normal use, INERTIAL LABS shall, at its sole discretion (i) repair or replace the non-conforming Product to remedy the non-conformity identified by Customer in accordance with Section 11.1 (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 INERTIAL LABS title and ownership of any parts that INERTIAL LABS replaces.

**11.3 Build to Print.** Any Product that INERTIAL LABS makes or customizes in accordance with Customer's specifications ("**Build to Print Product**") is excluded from the limited warranty in Section 11.1 (Limited Product Warranty). With respect to Build to Print Product, INERTIAL LABS warrants only that INERTIAL LABS performs the manufacturing services in a professional and workmanlike manner and in accordance with standards reasonably applicable to such services. INERTIAL LABS will re-perform any services which are not in compliance with this warranty if Customer notifies INERTIAL LABS of non-compliance in writing, on or before thirty (30) days immediately following completion of the applicable services. THIS SERVICE WARRANTY IS THE ONLY WARRANTY THAT APPLIES TO THE PROVISION OF CONTRACT MANUFACTURING SERVICES OR BUILD TO PRINT PRODUCTS TO CUSTOMER.

**12 Disclaimer.** THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION 12 WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE



AGAINST INERTIAL LABS WITH RESPECT TO ANY NON-CONFORMANCE OF GOODS AND/OR SERVICES. EXCEPT AS SPECIFIED IN SECTION 11.1 (LIMITED PRODUCT WARRANTY) AND 11.3 (BUILT TO PRINT), INERTIAL LABS MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY PRODUCT. INERTIAL LABS 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.

**13. 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, INERTIAL LABS will accept Goods only if returned in compliance with INERTIAL LABS's Return Material Authorization process ("RMA"). Customer shall obtain a RMA number from INERTIAL LABS prior to returning any Goods and ship the Goods prepaid and insured to the local care center or FCA point, as instructed by INERTIAL LABS. If Customer returns Goods without an itemized statement of claimed defects, INERTIAL LABS will not evaluate the Goods and Services but will return them to the Customer at the Customer's expense. Any Good that is returned to INERTIAL LABS but which is found to meet the applicable specifications for the Good and/or is not defective in workmanship and materials shall be subject to INERTIAL LABS's standard examination charge in effect at the time, which shall be charged to, and paid for by, Customer.

#### 14. MISCELLANEOUS

**14.1 Compliance.** Customer shall obtain all licenses, permits and approvals required by any government and shall comply with all applicable laws, rules, policies and procedures of the applicable government and other competent authorities. Customer will indemnify and hold INERTIAL LABS harmless for any violation or alleged violation by Customer of such laws, rules, policies or procedures. Customer shall not transmit, export or re-export, directly or indirectly, separately or as part of any system, the Goods or any technical data (including processes and services) received from INERTIAL LABS, without first obtaining any license required by the applicable government, including without limitation, the United States Government and/or any other applicable competent authority. Customer also certifies that (i) none of the products or technical data supplied by INERTIAL LABS will be sold or otherwise transferred to, or made available for use by or for, any entity that is: (a) located in an "embargoed" country in accordance with any applicable government list(s) including without limitation, those of the United States, (b) a 'denied' or 'restricted' party on any applicable government list(s) including without limitation, those of the United States, and/or (c) engaged in the design, development, production or use of nuclear, biological or chemical weapons or missile technology; (ii) no relevant agency or authority has suspended, revoked or denied Customer's export and/or import privileges; and/or (iii) Customer is not located in or under the control of a national or resident of, a jurisdiction where this transaction is prohibited.

**14.2. Choice of Law and Jurisdiction.** The Agreement and its validity, interpretation and performance, and any related dispute between the parties ("Disputes") shall be governed by the laws of the State of New York and the United States of America, as if performed wholly within the State of New York, and without giving effect to any principles of conflict of laws. The parties specifically disclaim the application of (i) the United Nations Convention on Contracts for the International Sale of Goods and/or its implementing and/or successor legislation and/or regulations; and/or (ii) principles of conflicts of law and that body of law applicable to choice of law. INERTIAL LABS and Customer hereby irrevocably and unconditionally submit to the jurisdiction of the courts in the State of New York and all courts competent to hear appeal therefrom and such courts shall have exclusive jurisdiction over any Disputes. Customer waives its right to a jury trial. Notwithstanding the foregoing, either party may, at its sole discretion, seek injunctive relief in any court of competent jurisdiction (including, but not limited to, preliminary injunctive relief). The prevailing party in any legal proceeding brought by one party against the other party in a Dispute shall be entitled to recover its legal expenses, including, but not limited to, the costs of any court or arbitration proceeding and reasonable attorneys' fees.

**14.3 Entire Agreement.** This Agreement contains the entire agreement between INERTIAL LABS and Customer concerning the subject matter of this Agreement, and apart from any existing sales agreement covering the products, software or services hereunder or non-disclosure agreements, this Agreement supersedes any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. No provisions in any purchase orders, or in any other documentation employed by or on behalf of either

party in connection this Agreement, regardless of the date of such documentation, will affect the terms of this Agreement, even if such document is accepted by the receiving party, with such provisions being deemed deleted. Any notices and any modifications of, or amendments to, the Agreement shall be invalid, unless (i) notices are in writing and sent by fax or by registered or certified mail, postage prepaid, or via email; and (ii) modifications and amendments are in writing and signed by duly authorized officers of both parties. Representations made by sales or technical personnel of INERTIAL LABS shall have no legal effect, unless confirmed by a senior executive of INERTIAL LABS (senior vice president or above) in writing. Furthermore, notices to INERTIAL LABS are invalid, unless and until received by email to [Viavi.Legal@viavisolutions.com](mailto:Viavi.Legal@viavisolutions.com) or by registered or certified mail, postage prepaid to the following address Attn. Legal Department, 1445 South Spectrum Blvd, Suite 102, Chandler, AZ 85286 or at such other address(es) as may be specified by INERTIAL LABS to Customer in writing as the appropriate address for notices.

**14.4 Dates and Timelines.** All references to days shall be to calendar days, except as expressly noted otherwise. All scheduled shipment dates, delivery dates, and other dates are non-binding estimates, unless a senior executive of INERTIAL LABS (vice president and above) expressly agrees in a duly signed writing that a certain date shall be legally binding.

**14.5 No Waiver.** The failure or delay of either party to exercise or enforce any right or claim does not constitute a waiver of such right or claim and shall in no way affect that party's right to later enforce or exercise it, unless such party issues an express written waiver, signed by a duly authorized representative.

**14.6 Assignment and Delegation.** Customer may not assign any of its rights against INERTIAL LABS, and any (purported) assignment, either voluntarily or by operation of law, is invalid. Any warranties extended by INERTIAL LABS are nontransferable and for Customer's benefit only. INERTIAL LABS may assign its rights and delegate its obligations.

**14.7 Force Majeure.** Any non-performance or late performance – except of payment obligations – of either party shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing or late-performing party whether or not similar to the foregoing. If by reason of any such force majeure event, INERTIAL LABS's supplies of Goods and Services are limited, INERTIAL LABS shall have the right to prorate the available supply in such a manner as it, in its sole discretion, determines appropriate.

**14.8 Audit.** From the date of this Agreement and up to five (5) years from the date of its termination or expiration, Customer will maintain complete and accurate records related to its use of the Goods which, upon prior reasonable notice, INERTIAL LABS or its agent(s) may inspect at Customer's facilities (including computers) and records to verify Customer's compliance with the provisions of the Agreement including these General Terms and any Software license terms and payment for all Software licensed (including applicable support fees) to Customer. Customer will keep records regarding its use in sufficient detail to permit this verification. Customer shall fully cooperate with such audit, and grant all required assistance and dial-in and/or on-site access to all networks, records, materials and equipment. If, after an audit, it is determined that Customer has underpaid any amounts due, INERTIAL LABS will invoice Customer for and Customer will pay the amount of the underpayment plus interest from the date payment was due. If the underpayment is more than five (5%) percent of the amount properly due, Customer will also reimburse INERTIAL LABS for its audit expenses. Additionally, any non-compliance of these General Terms shall be deemed a material breach which shall entitle INERTIAL LABS to immediately terminate the Agreement. INERTIAL LABS's rights and remedies under this Section 14.8 shall be in addition to and not in lieu of any other rights or remedies that are available to INERTIAL LABS at law or in equity.

**14.9 Severability.** If and to the extent that any of the terms of this Agreement, except payment obligations, 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.

**14.10 No Authority.** The parties to this Agreement are independent contractors. No relationship of principal to agent, master or servant, employer to employee or franchiser 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. INERTIAL LABS neither assumes nor authorizes any third-party,

person or entity to assume or accept any liability or obligation, or to make any commitment for INERTIAL LABS with regard to the Goods and/or Services.

**14.11 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.

## Personal Data Protection Notice

1. INERTIAL LABS will collect Personal Data about identified or identifiable individuals who interact with INERTIAL LABS on behalf of Customer when INERTIAL LABS quotes for, takes orders for, acknowledges orders for, invoices, sells, licenses or delivers products, software or services. Personal Data may include the relevant individual's name, business address, email address and telephone number (known collectively as "Personal Data"). INERTIAL LABS's use of Personal Data that is processed by INERTIAL LABS because of use of INERTIAL LABS's website, and engagement with INERTIAL LABS's marketing and sales activities, are described in our [online privacy policy](#).
2. INERTIAL LABS uses Customer Personal Data to facilitate the business relationship between INERTIAL LABS and Customer so that INERTIAL LABS can fulfil its contractual obligations.
3. INERTIAL LABS relies on the following legal bases to use and process Personal Data:
  - a. The processing is necessary for INERTIAL LABS's legitimate interests to manage the commercial relationship with Customer and for related functions including for administrative purposes, such as business processes, maintaining business and statutory records, correspondence with Customer, addressing requests made by Customer, providing goods, software or services to Customer, business analysis, transactions, security and planning.
  - b. The processing is necessary for the performance of the contract between INERTIAL LABS and Customer to provide goods, software or services to Customer; and
  - c. The processing is necessary for compliance with INERTIAL LABS's legal obligations, such as accounting and tax requirements.
  - d. Where applicable, INERTIAL LABS will process Personal Data on the basis of the relevant individual's consent (for example, consent to receiving electronic marketing communications from INERTIAL LABS about products or services), from which the relevant individual is entitled to subsequently withdraw at any time by contacting INERTIAL LABS [through this form](#), without affecting the lawfulness of processing based on consent before its withdrawal.
4. Personal Data will be collected through normal business interactions such as sharing contact details between employees of INERTIAL LABS and Customer, e-mail exchanges, organising meetings, transfer of commercial and contractual documents.
5. INERTIAL LABS will retain Personal Data for as long as it is relevant to the commercial relationship with INERTIAL LABS or as long as necessary to comply with any legal obligation or to fulfill the above-listed purposes.
6. In respect of Personal Data stored and processed by INERTIAL LABS, relevant individuals within the Customer are entitled to request access to, rectification or erasure of their own Personal Data. They are also entitled to request restriction of processing or to object to processing of such Personal Data and other rights in accordance with applicable law. Relevant individuals may exercise such rights through [this form](#). INERTIAL LABS will provide the relevant individuals with a response in accordance with applicable data protection law. INERTIAL LABS may refuse to provide such information in limited circumstances under applicable local law. INERTIAL LABS may not be able to honour specific requests (such as to delete data or stop sharing data with third parties) when doing so would limit INERTIAL LABS's abilities to meet its contractual and legal responsibilities. Relevant individuals also have the right to lodge a complaint before their local data privacy authority should INERTIAL LABS violate applicable data privacy laws(s) in our processing of Personal Data.
7. Customer Personal Data is used by appropriate functions within INERTIAL LABS to fulfil our contractual obligations. INERTIAL LABS applies the principle of least access, with best efforts made to limit access to Personal Data. Sometimes INERTIAL LABS may need to share Customer Data with other companies within the INERTIAL LABS group and with third parties. INERTIAL LABS will only do so when necessary for legitimate businesses purposes. For example, Personal Data may be shared within the INERTIAL LABS group of companies for administrative reasons. INERTIAL LABS may share Customer Data with carefully selected service providers that provide services related to INERTIAL LABS's business and under contract to INERTIAL LABS, including advisers and insurers. Service providers will be carefully selected and bound by appropriate contractual protections to protect the security and confidentiality of Personal Data, where required by applicable law. Details of the third parties used by INERTIAL LABS to process Personal Data can be obtained by contacting [privacy@VIAVIsolutions.com](mailto:privacy@VIAVIsolutions.com). VIAVILABS may also share Personal Data with competent public corporations and government authorities as required by law or legal process, and with any third party business in the event that or where there is a prospect that all or substantially all of our assets are sold or transferred to another party, or another transaction occurs in which your personal information is or may be one of the business assets transferred.
8. Customer Data may be transferred to INERTIAL LABS companies or to third parties operating outside of the jurisdiction in which it was collected, including but not limited to the United States. INERTIAL LABS implements appropriate contractual measures to ensure that the relevant INERTIAL LABS companies and third parties provide an adequate level of protection to Customer Data as set out in this policy and as required by applicable local law. Where Customer Data processing includes Personal Data that originates in the European Economic Area (EEA) or United Kingdom of Great Britain and Northern Ireland (UK) and is then transferred outside the EEA or UK then the relevant EU SCCs, Swiss SCCs and UK IDTA are implemented between relevant INERTIAL LABS companies and third parties.
9. INERTIAL LABS takes appropriate measures to ensure the security and confidentiality of Personal Data it holds and to limit access to that Personal Data in order to safeguard it from loss, interference, misuse, unauthorized access, disclosure, alteration or destruction. Personal Data is stored by INERTIAL LABS and its third parties primarily in the USA, but other locations are also used.
10. INERTIAL LABS is committed to complying with this Personal Data Protection Notice and applicable data protection and data privacy laws.
11. In the event of a data breach or security incident that may, or has, compromise INERTIAL LABS's processing and or the security of Customer Personal Data INERTIAL LABS will notify Customer through available channels of communication.