

**ACCEPTANCE OF ORDER.** The following terms and conditions (“Terms”) apply to all quotations, sales of product, and performance of services by QPC Fiber Optic, Inc. (“QPC”) to its customers (each a “Customer” or “Buyer”). All orders are subject to approval and acceptance by QPC. Any acceptance of Customer’s order by QPC is expressly contingent on Customer’s agreement to these Terms herein. Acceptance of, payment for, or use of any part of the product(s) to be delivered hereunder, or any authorization to proceed with delivery (oral or written), issuance of a purchase order, or any other form of Customer’s acceptance of this offer shall constitute such assent by Purchaser. QPC specifically objects to and rejects any inconsistent terms or conditions offered by Customer, which shall not be binding unless they are in writing and signed by an authorized representative of QPC; provided, however, that Purchaser’s purchase order acknowledgment form (or its equivalent) shall not constitute such a writing, whether signed by an authorized representative of QPC or not (Customer’s purchase order and its corresponding acknowledgment form, if any, shall be prepared only for the purposes of convenience in identifying order).

**PRICES/QUOTATIONS.** All prices are quoted in U.S. dollars unless otherwise stated, exclusive of shipping, insurance, taxes, regulatory fees, and similar costs. Prices quoted are valid for thirty (30) days, unless specifically stated otherwise. Customer agrees to provide QPC with a signed written certification supporting any claimed exemption from otherwise applicable sales taxes.

**PAYMENT.** Payment must be made in U.S. dollars by credit card, check or wire transfer. Customer is responsible for any and all banking, wire transfer, and currency exchange fees. Payment is due in full at time of order unless QPC has approved Customer for credit. Orders on credit are subject to credit investigation and approval at QPC’s sole discretion, and if approved, under such additional terms and conditions as specified in the credit application. If credit for the order is approved, payment is due thirty (30) calendar days after the invoice date unless other arrangements have been made and agreed to in writing by a duly authorized representative of QPC. If payment is not timely, QPC shall be entitled to, in addition to all other legal rights and to the extent permissible by applicable law, a processing/collection charge of 1-1/2% per month, with a minimum \$50.00 charge. QPC shall not be required to proceed with delivery of product(s) or performance of services if, in its opinion, Customer’s ability to pay for the products or services is in doubt. QPC assumes no liability for any delays in shipment due to the credit investigation approval process or for shipments placed on hold due to QPC’s doubts regarding Customer’s ability to pay.

**DELIVERY.** Title and risk of loss or damage shall pass from QPC to Customer upon QPC’s putting the material purchased hereunder in good condition into the possession of a common carrier, such carrier acting as Customer’s agent. All claims must be filed with the carrier. Stated lead-times are based on stock levels at time of quote and are subject to change pending prior sale to other customers. Customer acknowledges that delivery dates, while given as accurately as conditions permit, are tentative only, and while QPC will use its reasonable best efforts to make deliveries as scheduled, QPC assumes no liability whatsoever for damages arising out of the failure to deliver or install the product(s) on the dates stated. All delivery and installation dates are predicated on prompt and timely receipt from Customer of all necessary information and documentation. With respect to any materials delivered and installed by QPC, title passes from QPC to Customer prior to installation. Substantial commencement of the installation or service shall occur on the first day that QPC furnishes labor, services and materials following receipt of Customer’s written notification to commence.

**CANCELLATION OR CHANGE.** Customer’s order, once placed and accepted, may be changed or canceled only with QPC’s written consent at QPC’s sole discretion. If QPC consents to cancellation, QPC may charge a cancellation / restocking fee to recover direct and overhead costs that have been invested in the order at the time of cancellation.

**RESCHEDULING OF DELIVERIES.** QPC may, but is not obligated to, accept a written request by Customer to reschedule shipment of products. If rescheduling is accepted by QPC, the price shall be adjusted to include any additional costs incurred or price increases for the new schedule.

**CUSTOMER WORKSITE READINESS.** With respect to orders involving QPC providing services at Customer’s specified worksite, Customer agrees that the worksite will be ready and available for QPC to begin work prior to QPC’s scheduled arrival time, and that Customer and any third parties that Customer has engaged to work at the site (such as other contractors and sub-contractors) have completed any preparatory work or any other work that must be finished prior to QPC’s tasks. Should delays cause the worksite not to be ready for QPC at the scheduled on-site time, Customer agrees to notify QPC at least 48 hours in advance to reschedule. QPC has the right to charge

Customer \$85 per hour/per person for any delays caused by the worksite being unready when QPC’s personnel arrive, including drive time to and from Customer’s site. Additionally, if the service date is delayed by more than 30 days from the originally scheduled service date through no fault of QPC, Customer agrees that QPC may invoice Customer for all materials costs QPC has purchased for Customer’s project, due upon receipt.

**CHANGES AND MODIFICATION IN DESIGN.** QPC, its subcontractors, vendors and suppliers reserve the right to make any change or modification to the design of products without incurring any obligation to furnish or to install such changes or modifications on products previously or subsequently sold. Customer shall make no design change.

**OWNERSHIP AND LICENSE.** In any and all instances that the terms “design”, “customization”, “development” or similar terms may be used in this or any related document, they are used in a broad, descriptive sense and, therefore, convey no contractual right in the design or copyright of any product(s) or component to be delivered nor in the processes of product creation. Any and all engineering effort associated with this order is understood to be a derivative work and/or adaptive engineering of design concepts previously developed by QPC entirely at its own expense. Unless otherwise expressly specified in writing elsewhere, no original research, design, or development is anticipated by this order. Under no circumstances shall this order be construed to be a grant or release of any ownership rights in any technology, all of which are hereby specifically reserved to QPC. Unless otherwise expressly specified in writing elsewhere, with respect to copyrightable works developed under this order, Customer and QPC agree that any such works which qualify as commissioned works under the Copyright Act are not considered “works made for hire,” with copyright ownership in QPC; otherwise, Customer agrees to assign any copyright ownership of the works to QPC.

**CONFIDENTIALITY.** Customer shall safeguard and keep secure from disclosure to any third party all information, in whatever form, concerning QPC’s design, methods, techniques and software, and the design, operation and features of the product(s), disclosed to or observed by Customer (“Confidential Information”). Customer acknowledges that all such information constitutes trade secrets of QPC. All inventions and improvements developed during the performance of any contract arising from this offer shall be the exclusive property of QPC. Customer agrees not to object to, infringe on, or assist in any infringement of QPC’s existing or future trade secrets or patents. All derivatives of, improvements to, or technological advances with respect to, the Confidential Information or other technology disclosed by QPC to Customer, regardless of whether embodied in the goods shall belong to QPC and Customer shall have no rights therein. Moreover, Customer shall use the goods only as a component its products and shall not reverse engineer or otherwise disassemble or decompile the goods. Any improvement to the goods developed through the use of any Confidential Information shall be the sole property of QPC, and Customer hereby assigns to QPC all right, title and interest therein and shall fully cooperate with and assist QPC in perfecting such ownership rights, including any patent applications relating thereto.

**SALE CONTAINS NO LICENSE.** The sale of goods hereunder does not convey any license under any patent, copyright, trade secret or other proprietary right with respect to which QPC can grant licenses. QPC expressly reserves all of its rights with respect to such patent, copyright, trade secret and/or other proprietary rights.

**TOOLING.** Unless otherwise expressly agreed, in a separately executed writing, QPC shall retain title to and possession of any models, patterns, dies, molds, jigs, fixtures, tools, and test equipment made or obtained for the performance of this order.

**EXPORT CONTROL.** Customer acknowledges that Shipments may contain technical data, services, and/or technology that are subject to export control, and that compliance with the U.S. Arms Export Control Act, as amended (22 U.S.C. 2751-2799), the International Traffic in Arms Regulations (ITAR), as amended (22 CFR 120-130), the Export Administration Act, as amended (50 U.S.C. 2401-2420), and the U.S. Export Administration Regulations (EAR), as amended (15 CFR 730-774) may be necessary. Customer agrees to comply with all applicable U.S. export control laws and regulations and shall not release any technical data that is export controlled under the ITAR or EAR to any foreign person(s) as defined in the ITAR (22 CFR 120.16) whether within the U.S. or abroad, without obtaining, in advance, the appropriate U.S. Government export authorization and written approval of the Company. All orders accepted for export are subject to issuance of an export license by the U.S. Government and subject to Customer providing QPC with the relevant import certificate or any other document necessary to obtain such export license and/or to permit the import of the product(s) into the country of destination.

**LIMITED LIABILITY.** QPC shall not be liable to Customer, or to anyone who may claim any right due to a relationship with Customer, for any acts or omission in the performance of this contract or at the direction of the employees or agents of Customer, unless such acts or omissions are caused by the willful misconduct of QPC. Customer will indemnify and hold QPC free and harmless from any and all obligations, costs, claims, judgments, attorneys' fees, and attachments arising from or in any way connected with the product(s) sold and the services rendered by QPC to Customer under this contract, unless QPC is judged by a court of competent jurisdiction to be guilty of willful misconduct. Under no circumstances shall QPC be liable for consequential or indirect damages and in no event shall QPC's liability exceed the purchase price of the particular product or service. ***Under no circumstances shall QPC have any responsibility or liability for a third party's warranty to Customer.*** If QPC furnishes Customer with advice or other assistance which concerns any goods supplied hereunder, or any system or equipment in which such goods may be installed, and which is not pursuant to this contract, the furnishing of such advice or assistance will not subject QPC to any liability, whether based on contract, warranty, tort (including negligence) or other grounds.

**QUANTITY VARIATIONS.** The normal variation between quantities of products ordered and those actually delivered is  $\pm 2\%$  per type of product ("Normal Variance"). Delivery of quantities of Products by QPC within the Normal Variance shall be deemed to be a complete delivery and the Customer shall have no claim as result of the delivered product being less or more than the products ordered. In no event shall the Customer have any claim against QPC for delivery of more products than that ordered and the Customer shall notify QPC of such over delivery, who may, at its own cost and sole discretion, retrieve such products from the Customer.

**CABLE LENGTH VARIATION.** QPC reserves the right to follow the wire industry practice of shipping within  $\pm 10\%$  of the cable length for orders of cable (cable that is not a component of the actual sales item). For customized cable assemblies, the normal variation in cable length incorporated therein is  $\pm 2\%$  or  $\pm 2$  inches, whichever is greater. Unless QPC expressly agrees in writing to tighter tolerances or specifications, Customer shall have no claim against QPC as result of the delivered cable being longer or shorter within these variances.

**INSPECTION AND ACCEPTANCE.** Unless Customer notifies QPC in writing within ten (10) days from date of shipment of any products that said products are rejected, they will be deemed to have been accepted by Customer. In order to be effective, the notice of rejection must specify in writing the reason(s) why the products are being rejected.

**LIMITED WARRANTY.** QPC warrants its product(s) delivered hereunder to conform to the applicable specifications, drawings and workmanship. This warranty shall continue in effect for a period of twelve (12) months from the date of shipment. The sole responsibility of QPC under this warranty shall be to repair or replace (in place or elsewhere, at QPC's option) any part or parts determined by QPC not to conform to the applicable specifications, drawings or workmanship; provided that written notice is given to QPC within ten (10) working days after discovery of the alleged nonconformity, but in any event within the warranty period. This warranty shall not apply to any product or part thereof which has been subject to misuse or neglect, was damaged by accident or acts of nature, consists of cosmetic damage, or is rendered defective by the performance of installation, movement, tampering, repairs or alterations by anyone other than QPC. This warranty shall not apply to any third party products (see separate manufacturer warranties, which may apply to Customer) supplied by QPC. This Warranty shall not apply to any material, part or parts furnished by Customer or acquired from others at Customer's request and/or to Customer's specifications, nor to material, part or parts subject to a manufacturers' warranty applicable to Customer. **THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS ARE EXCLUDED. THE WARRANTY CONTAINED HEREIN IS IN LIEU OF ANY AND ALL OTHER WARRANTIES OR REPRESENTATIONS WHETHER EXPRESS OR IMPLIED, AND OF ANY OTHER OBLIGATION OR RESPONSIBILITY OF QPC TO CUSTOMER, INCLUDING WITHOUT LIMITATION INCIDENTAL, CONSEQUENTIAL AND INDIRECT DAMAGES.** No agreement or understanding bearing upon or extending the warranty or remedies set forth herein will be binding on QPC unless QPC has agreed thereto in writing.

**RETURNS.** Under no circumstances are products to be returned to QPC without QPC's prior written approval (RMA). QPC reserves the right to scrap or otherwise dispose of any unauthorized return materials on a no credit basis.

**MECHANIC'S LIEN RIGHTS.** California law grants contractors, subcontractors, material suppliers, and laborers who helped to improve a real property within the State with mechanics' lien rights in the property, provided that the conditions specified under the law are satisfied. If QPC provides labor and/or materials for a work of improvement, Customer is aware that QPC may record a lien on the property, and if payment is not received, foreclose on that lien. If Customer engages QPC to provide labor and/or materials for a work of improvement on real property within California (whether Customer is the property owner, property manager, general contractor, subcontractor, or owner's agent), Customer agrees to cooperate with QPC in protecting and perfecting QPC's lien rights on the property, including but not limited to, furnishing QPC with timely and accurate information regarding the work of improvement, the property, and other parties involved in the work of improvement.

**INSURANCE.** If this order includes services provided by QPC at Customer's location, QPC shall obtain and maintain workers compensation insurance and commercial general liability insurance at all times during performance of the work. Upon request, QPC may name Customer as an additional named insured on QPC's commercial general liability insurance policy and/or provide a waiver of subrogation on QPC's workers compensation insurance towards Customer and/or other interested parties provided that Customer shall first reimburse QPC for any and all fees, premiums and expenses attributable thereto.

**DEFAULT.** In the event that Customer believes that QPC has failed to perform its obligations under the order, Customer shall notify QPC in writing, specifying the nature of the alleged failure to perform. QPC shall not be in breach of this agreement provided it has taken reasonable steps to cure the default within twenty (20) working days after receipt of the written notice.

**BANKRUPTCY.** In addition to any other rights and remedies available at law or in equity, either party may cancel all or the unperformed portion of any open order in the event that the other party becomes insolvent or a bankruptcy petition is filed which is not vacated within thirty (30) days from the date of filing.

**FORCE MAJEURE.** If the either party is prevented directly or indirectly from performing this contract by act of God, the public enemy, war, revolution, blockades, strike, riot, earthquake, cyclone, flood, delay by carrier, subcontractor/vendor action or omission, fuel shortage, embargo, walk-out or other labor disturbance, actual or potential, the operation of laws, interferences of civil or military authority, or other cause, existing or future, beyond the reasonable control of the party affected, interfering with the performance of work as herein contemplated, the party so prevented or interfered with shall be excused from performance hereunder, excluding the obligation to pay monies owed, provided prompt written notice is given to the other party.

**INVALIDITY.** The invalidity, in whole or in part, of the Terms or any provision or part thereof shall not affect the validity or enforceability of any other term or provision.

**WAIVER.** The right of either party to require strict performance of the Terms shall not be affected by any prior waiver or course of dealing. Waiver of any breach shall not constitute a waiver of subsequent breach.

**GOVERNING LAW; JURISDICTION (For US Government Customers).** The validity of any contract or purchase order arising from this offer and of any of the Terms, as well as the rights and duties of parties arising out of the performance hereunder, shall be governed by the Federal Law of the United States, without regard to conflict of law provisions. Captions are for convenience only and shall not be used to interpret the Terms. Jurisdiction over and the venue of any dispute arising out of such rights and duties shall be exclusively in the Federal Courts of the United States. Both parties hereby agree and consent to such personal jurisdiction and waive any and all objections thereto.

**GOVERNING LAW; JURISDICTION (For Non US Government Customers).** The validity of any contract or purchase order arising from this offer and of any of the Terms, as well as the rights and duties of parties arising out of the performance hereunder, shall be governed by California law, without regard to conflict of law provisions. Captions are for convenience only and shall not be used to interpret the Terms. Jurisdiction over and the venue of any dispute arising out of such rights and duties shall be exclusively in the Superior Courts of California, County of Orange. Both parties hereby agree and consent to such personal jurisdiction and waive any and all objections thereto.

**ASSIGNMENT.** Neither party may assign this order without the prior written consent of the other, which consent shall not be unreasonably withheld.