

QPC Fiber Optic, LLC - Terms of Sale

ACCEPTANCE OF ORDER. The following terms and conditions ("Terms") apply to all quotations and sales of product by QPC Fiber Optic, LLC ("QPC") to its customers (each a "Customer"). 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. Acceptance of, payment for, or use of any part of the Product(s) to be delivered hereunder, 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 Customer. 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 Customer'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 solely for 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) calendar 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, subject to any 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 1.5% per month, with a minimum \$100 charge. QPC shall not be required to proceed with delivery of Product(s) if, in its opinion, Customer's ability to pay for the Product(s) 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 efforts to make deliveries as scheduled, QPC assumes no liability whatsoever for damages arising out of the failure to deliver on the dates stated. All delivery dates are predicated on prompt and timely receipt from Customer of all necessary information and documentation.

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 Product(s). If rescheduling is accepted by QPC, the price shall be adjusted to include any additional costs incurred or price increases based on the new schedule.

COST CONTROL. QPC reserves the right to adjust the quoted prices in the event of significant cost changes that are beyond QPC's control. Such changes may include, but are not limited to, fluctuations in tariffs, raw material escalation costs, or other regulatory costs. If the cumulative increase in costs exceeds 10% from the date of the quote, QPC may adjust the price accordingly. In such cases, QPC will provide the Customer with a written notice outlining the reason(s) for the adjustment and the revised price. The Customer will have the option to accept the new pricing or cancel the order without penalty within 14 calendar days of receiving the notice. QPC will make reasonable efforts to mitigate the impact of cost changes and will only implement adjustments deemed necessary to maintain the viability of the contract.

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(s) 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 of its Product(s) 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 rights, 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 Product(s), technical information, and/or technology that are subject to export control, and that compliance with the U.S. Arms Export Control Act, the International Traffic in Arms Regulations (ITAR), the Export Administration Act, and U.S. Export Administration Regulations (EAR), may be necessary. Customer represents that it is not an entity sanctioned by US and/or other applicable export laws and regulations nor is it otherwise owned or controlled by or acting on behalf of any person sanctioned by US and/or other applicable export laws and regulations. Customer acknowledges and agrees to comply with all applicable U.S. export control laws and regulations and shall not release any Product(s), technical information, and/or technology that is export-controlled under the ITAR or EAR to any foreign company or person, whether within the U.S. or abroad, without obtaining, in advance, the appropriate U.S. Government export authorization and written approval of the Company. Customer acknowledges and agrees that it will not divert, use, export, or re-export such Product(s), technical information, and/or technology contrary to United States and/or other applicable export laws and regulations to include for prohibited end-use and/or proliferation activities. Customer acknowledges and agrees that it will not export, re-export, or provide such Product(s), technical information, and/or technology to any entity or person within any country that is subject to United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the United States Government. Customer acknowledges and agrees that it will not export, re-export, or provide such Product(s), technical information, and/or technology to entities and persons that are ineligible under United States law to receive such Product(s), technical information, and/or technology, including but not limited to, any person or entity

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on the United States Treasury Department's list of Specially Designated Nationals or on the United States Commerce Department's Denied Persons List, Entity List, or Unverified List without obtaining prior authorization from the United States Government. Customer agrees to conduct the required due diligence and document how QPC's Product(s) move through the supply chain all the way to the End User. This must include the Project / Program, End User, Destination Country, and the Specific Application. QPC reserves the right to request copies of and/or audit applicable records at any time. Any orders accepted for export, that are subject to issuance of an export license by the U.S. Government, will be 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 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 Product(s) in question. ***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.

INSPECTION AND ACCEPTANCE. Unless Customer notifies QPC in writing within ten (10) working days from date of shipment of any Product(s) that said Product(s) 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 Product(s) 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(s) 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 Product(s) (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 Product(s) 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.

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) working days from the date of filing.

FORCE MAJEURE. If either party is prevented directly or indirectly from performing this contract by act of God, a public health crisis, cyberattack, government imposed lockdowns or quarantines, supply chain disruptions, 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 (whether 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.