

Standard Purchase Order Terms and Conditions

1. **Terms.** These Standard Purchase Order Terms and Conditions (“**Terms**”) apply to all purchases of goods and/or services (“**Supplies**”) identified in a purchase order (the “purchase order”) issued by (i) Quantum Computing, Inc. or (ii) its subsidiaries and affiliates, EM4, LLC, Freedom Photonics LLC, NuCrypt LLC, Nhanced Semiconductors, Inc., and OptoGration Inc. (the entity issuing the Order, whether Quantum Computing, Inc. or one of such subsidiaries and affiliates, shall be defined as “**QCi**”) to the seller identified on the face of the Order (“**Seller**”) whether or not such Order references these Terms or attaches these Terms. If QCi and Seller have separately negotiated terms and conditions for the Supplies (“**Negotiated Terms**”), those Negotiated Terms shall control and supersede this document in full respecting the Supplies. The Effective Date of these Terms is the date that Seller accepts the Order pursuant to Section 3 below. If there are no Negotiated Terms, QCi and Seller, each a “**Party**” or collectively the “**Parties**” in these Terms, hereby agree as follows:
2. **Order.** The “**Order**” consists collectively of the following: (i) the terms and conditions on the face of the purchase order, which terms are incorporated herein by reference; (ii) these Terms; and (iii) all other documents specifically incorporated into this Order. Seller agrees to provide the Supplies in accordance with the Order. In the event of conflict, the purchase order shall prevail over the Terms, and the Terms shall prevail over any other documents. The Order is the entire agreement between the Parties respecting the Supplies and supersedes all prior agreements, negotiations, and/or understandings of the Parties respecting the Supplies. No modification of or amendment to this Order, nor any waiver of any rights under this Order, shall be effective unless agreed to in writing and signed by both QCi and Seller. The rights and remedies in the Order are not exclusive and are cumulative with and in addition to all other remedies at law.
3. **Acceptance.** This Order is QCi’s offer to Seller to purchase the Supplies and is not binding until accepted. Seller accepts this Order upon the earlier of its beginning work or performance of the Order or notifying QCi of its acceptance of the Order in writing. QCi may cancel this Order without any liability or cost at any time prior to Seller’s acceptance. The Order is limited to and conditional upon Seller’s acceptance of the Terms exclusively. Any additional or different terms contained in any acknowledgment, invoice, online, or other communication proposed by Seller are expressly rejected by QCi.
4. **Price and Payment.** The purchase price is specified in the purchase order and is a firm fixed price for the duration of the Order and is inclusive of all applicable taxes, duties, tariffs, and other trade-remedy measures and of all storage, handling, packaging and all other costs of Seller. Payment terms shall be specified in the purchase order or, if not specified, shall be net sixty (60) days from the later of QCi’s receipt of a correct invoice and QCi’s acceptance of the Supplies. Payment shall be deemed to occur upon transmittal of payment by QCi. All payments shall be in U.S. dollars. QCi may set off any amount owed by Seller or its affiliates to QCi or its affiliates against any amount payable by QCi under the Order or any other order.
5. **Volume and Duration.** The Order shall be effective upon the date of acceptance of the Order by Seller. Unless the Order states a specific quantity, QCi is obligated to purchase only those quantities specified in the Order or in releases issued by QCi, and nothing in the Order shall be construed as a requirements contract or as any minimum-purchase, volume, or exclusive purchasing commitment by QCi. Unless terminated earlier by either Party, the Order shall terminate on the date specified in the purchase order or, if no date is specified, upon completion of delivery and final acceptance of the Supplies. No modification of or amendment to the termination date shall be effective unless agreed to in writing and signed by both QCi and Seller.
6. **Delivery.** Time is of the essence. The dates, times, quantities, schedules, locations, carriers, and other requirements for delivery of the Supplies (“**Delivery Requirements**”) shall be specified in the purchase order, and Seller shall make delivery pursuant to the Delivery Requirements. Seller shall immediately notify QCi in writing of delays or proposed adjustments to any Delivery Requirements. QCi reserves the right to terminate this Order in whole or in part if Seller should fail to ship or deliver in accordance with the purchase order or Delivery Requirements. No changes to the Delivery Requirements shall be made unless previously approved in writing by QCi.
7. **Shipping.** Seller shall be responsible for proper and safe packing, packaging, marking, and shipping of the Supplies and for ensuring that the Supplies are shipped in compliance with QCi shipping and labeling requirements which shall be

provided to Seller by QCi and attached to the Order. Unless otherwise specified in the purchase order, the Supplies shall be delivered DDP (Incoterms 2020) the destination designated in the purchase order, and title to and risk of loss of the Supplies shall pass to QCi upon delivery at such destination. QCi may, at Seller's expense and risk, return or hold any Supplies delivered in excess of ordered quantities or in advance of the scheduled delivery date.

8. **Inspection.** All Supplies received are subject to inspection, test, and/or acceptance by QCi. Defective Supplies or non-conforming Supplies may be returned at Seller's expense. Payment for Supplies in the Order does not constitute an acceptance of the Supplies and will not limit or affect any rights or remedies of QCi, nor will acceptance remove Seller's responsibility for defective, non-conforming, or non-complying Supplies. If rejected or required to be repaired, Supplies shall be replaced or corrected by and at the expense of Seller as directed by QCi. Any rejected Supplies will be returned to Seller at Seller's expense and risk of loss will pass to Seller upon QCi's delivery to the common carrier.
9. **Changes.** QCi may at any time make changes to the Order which shall be effective when written notice of the change is received by Seller. If any changes affect the cost or schedule or any other portions of the Order, an amendment to the Order shall be made and executed by QCi and Seller in writing which shall reflect any equitable adjustment required to be made as a result of the changes. Seller shall send a written request for equitable adjustment to QCi in writing within seven (7) days from the date Seller received notification of any changes and QCi and Seller shall negotiate any such request in good faith. Seller shall not make changes to specifications, process or material without written approval from QCi. Seller shall notify QCi of all proposed changes and QCi reserves the right to accept or reject any change recommendation.
10. **Termination.** QCi may terminate the Order in whole or in part by written notice (Notice of Termination) for any reason by providing thirty (30) days written notice to Seller. Either Party can terminate the Order for default if the other Party materially breaches any provision of the Order and fails to correct any such breach within thirty (30) days after receiving written notice describing the breach. Termination by QCi shall not relieve Seller of any liability under the Order and Seller may not suspend performance of the Order for any reason. Following delivery of any notice of termination, Seller shall promptly terminate all work under this Order and, at QCi's option and request, Seller shall transfer title and deliver to QCi all finished Supplies completed prior to receipt of the notice of termination and all work in process, and the parts and materials which Seller produced or acquired in accordance with the Order. Seller will also take actions reasonably necessary to protect property in Seller's possession in which QCi has an interest until disposal instructions from QCi have been received. In connection with a termination by QCi for reasons other than Seller's default, QCi shall pay to Seller the price for all conforming Supplies finished by Seller or received by QCi prior to the notice of termination. QCi's total liability in connection with any termination of the Order shall not exceed the aggregate price of the terminated Supplies. QCi will have no obligation to pay Seller, directly or on account of claims by Seller's subcontractors, for loss of anticipated profit, failure to realize anticipated production volumes, revenues or savings, unabsorbed overhead, interest on claims, product development and engineering costs, tooling, facilities and equipment rearrangement costs or rental, unamortized capital or depreciation costs, or general administrative burden charges from the termination (for any reason) or expiration of the Order. The obligations of Seller to QCi survive termination of the Order.
11. **Warranty.** Seller warrants that the Supplies shall (i) conform to this Order in all respects, including all specifications, drawings, and requirements furnished by QCi and are fit for use and suitable for QCi's intended purpose; (ii) be free from all defects in design, workmanship, and materials and be of highest quality and workmanship; (iii) conform to all applicable Laws in countries where the Supplies (or goods into which the Supplies are incorporated) are to be sold; (iv) be manufactured in a professional and workmanlike manner, consistent with all standards and specifications agreed on with QCi and otherwise consistent with industry standards; (v) be free from liens and encumbrances of any nature, and (vi) be free from any claim of infringement or misappropriation of, or of royalties for, any patent rights, copyright, trademark, trade secret, or other confidential or proprietary intellectual property rights of any third party. Seller further warrants that it has a good and transferable title to the Supplies. All warranties of Seller extend to future performance of the Supplies and are not modified, waived or discharged by delivery, inspection, tests, acceptance and payment. Without limiting the foregoing, the warranty period for the Supplies shall be the longer of (a) twenty-four (24) months from QCi's acceptance of the Supplies and (b) Seller's standard warranty period. QCi's approval of any design, drawing, material, process or specifications will not relieve Seller of these warranties. Seller shall, at QCi's sole option, repair or replace all Supplies not meeting these requirements, or refund QCi the price of any Supplies not meeting these requirements. Seller represents and warrants that

its performance of the Order will not in any way conflict with any continuing interests or obligations of Seller or its employees or contractors. The foregoing warranties are in addition to all other warranties, expressed or implied.

- 12. Indemnification.** Seller shall defend, indemnify and hold harmless QCI and its affiliates, officers, directors, agents and representatives, customers, and employees from and against any and all claims, suits, losses, penalties, damages, whether actual, punitive, consequential or otherwise, and associated costs and expenses, including attorney's fees, expert's fees, and costs of investigation, and all liabilities that are caused in whole or in part by: (a) any actual or alleged infringement of any title, patent rights, copyright, trademark, trade secrets or confidential or proprietary intellectual property rights, liens, or encumbrances of any nature relating to the Supplies; (b) any actual or threatened breach by Seller of the Order; (c) any negligent or intentional act, error or omission by Seller, its employees, officers, agents or representatives in the performance of the Order or in connection with the design or manufacture of the Supplies; (d) any defect or non-conformity in the Supplies or any noncompliance by Seller with any of its representations, warranties or obligations under the Order; (e) any claim that is for, in the nature of, or that arises under warranty, strict liability or products liability with respect to or in connection with the Supplies, (f) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated costs; (g) tax-related claims; (h) failure to comply with applicable laws. The foregoing obligations shall not apply to the extent a claim is finally determined to have been caused solely by QCI's negligence or willful misconduct. If any Supplies become, or in QCI's reasonable opinion are likely to become, the subject of a claim of infringement or misappropriation, Seller shall, at its expense and at QCI's option: (i) procure for QCI the right to continue using the Supplies; (ii) replace or modify the Supplies with non-infringing equivalents reasonably acceptable to QCI; or (iii) refund to QCI the price paid for the affected Supplies.

13. Intellectual Property.

- a. **Definitions. "Background IPR"** means any Intellectual Property Rights owned by Seller (i) prior to commencement of any Supplies or receipt of any QCI technology or Proprietary Information, or (ii) independently developed by Seller without any use of any QCI technology or Proprietary Information.
- "Foreground IPR"** means any Intellectual Property Rights developed by Seller in connection with the Supplies or with use of or reference to any QCI technology or Proprietary Information.
- "Intellectual Property Rights"** shall mean all common law and statutory rights anywhere in the world arising under or associated with, patents, patent applications, inventors' certificates, copyrights, copyright registrations and applications, trademarks, trade names, service marks, trade and industrial secrets and confidential information, and analogous rights.
- "Work Product"** means any developments, discoveries, copyrightable material, inventions, improvements, additions or modifications, whether or not patentable, that are created, derived from, or developed in connection with the Supplies or any QCI technology or Proprietary Information.
- b. **Ownership.** All right, title and interest in and to the Work Product and all Foreground IPR with respect thereto, shall be owned exclusively by QCI. Accordingly, Seller agrees to assign and hereby assigns to QCI all of its rights, title in and to any and all Work Product and Foreground IPR. All copyrightable Work Product shall be considered a "work made for hire" for QCI to the maximum extent permitted by applicable law. Seller shall execute and deliver, and shall cause its employees and subcontractors to execute and deliver, all documents and instruments, and take all actions, reasonably requested by QCI to evidence, perfect, or record QCI's ownership of the Work Product and Foreground IPR. Seller and QCI own and retain all rights, title and interest in and to all Intellectual Property Rights in their respective Background IPR.
- c. **License.** To the extent any of the rights, title and interest in and to such Work Product and Foreground IPR cannot be assigned by Seller to QCI, Seller hereby grants to QCI, its subsidiaries and affiliates, and their respective successors and assigns, and QCI hereby accepts a non-exclusive, royalty-free, transferable, perpetual, irrevocable, worldwide, fully paid up unlimited license (with rights to sublicense through multiple tiers of sub-licensees) under such Work Product and Foreground IPR to use, sell, offer for sale, import, copy, distribute, modify and otherwise exploit the Work Product in any manner whatsoever, which includes, subject to the confidentiality provisions referenced in Section 14, any works of authorship fixed in any tangible medium of expression (including drawings, prints, manuals and specifications) furnished by Seller in the course of Seller's activity under this Order, to reproduce, distribute and display such works and to prepare derivative works based thereon, subject to the other provisions of this Order. Seller agrees that if in the course of supplying the Supplies, Seller incorporates any Background IPR that is owned or licensable by Seller into any Work Product, Seller hereby grants to QCI a nonexclusive, royalty-free, perpetual, irrevocable, worldwide license under, and to use, such Background IPR for the purpose of using, selling, offering for sale, importing, copying, distributing, or modifying the Work

Product for QCi's business purposes. Seller will ensure that the terms of its contracts with its subcontractors and employees are consistent with the terms of this Section.

14. Confidential Information.

- a. **Confidentiality.** Either Party may be provided or have access to information which is "confidential or proprietary to the other ("**Proprietary Information**")". Proprietary Information means certain technical and business information, including third party information, related to a Party's business disclosed by one Party ("**Discloser**") to the other Party ("**Recipient**")": (i) in documents or other tangible materials clearly marked as confidential, (ii) orally or in any other intangible form, if at the time of first disclosure the Discloser tells the Recipient that the information is confidential, and within 30 calendar days after that first disclosure the Discloser delivers to the Recipient documents or other tangible materials clearly marked as confidential which disclose or describe that information; (iii) which would, under the circumstances, appear to a reasonable person to be confidential or proprietary; or (iv) data learned as a result of visiting Discloser's facilities. As used herein, "Proprietary Information" may include, without limitation, product/service specifications, designs, ideas, processes, prototypes, computer programs, models, drawings, marketing plans, financial data, and personnel statistics, but excludes information which: (i) is or becomes publicly known by the public through no wrongful act of the Recipient; (ii) is independently developed by or for the Recipient without reference to or aid of any of the Discloser's Proprietary Information; (iii) is obtained by the Recipient from a third person without breach by such third person of an obligation of confidence with respect to the Proprietary Information disclosed; or (iv) is required to be disclosed by Recipient by operation of law or pursuant to an order of a governmental agency provided that upon receiving an initial demand to disclose, Recipient informs Discloser so that Discloser can seek legal or other relief barring or limiting disclosure.
- b. **Nondisclosure.** Neither Party shall disclose, copy, reproduce, sell or assign any Proprietary Information of the other, either in whole or in part, to any third party without the other Party's prior written consent. Disclosure of the other Party's Proprietary Information to employees shall be on a need-to-know basis for sole use in connection with the provision of supplying the Supplies hereunder. Upon termination of the Order or upon request at any time, the Recipient shall return to the Discloser, or destroy, all Proprietary Information belonging to the Discloser pursuant to subsection (c) below. Both Parties shall maintain and not alter or remove any trademark, notice of proprietary rights, copyright or other identification, which indicates the other Party's ownership interests in any Proprietary Information. Each Party shall notify the other Party promptly and in writing of any unauthorized knowledge, possession, distribution, or use of the other's Proprietary Information. Any violation or threatened violation of this Section shall entitle the aggrieved Party to injunctive relief in addition to any other legal or equitable rights or remedies.
- c. **Return of Proprietary Information.** Upon completion of the work or upon the written request at any time of either Party, and regardless of any other issues which might be outstanding between the Parties at such time or times, the Recipient shall return within five (5) business days all copies of any Proprietary Information or data received from the Discloser and all derivatives thereof, to the Discloser, or, if so requested by the Discloser, the Recipient shall certify in writing that all copies of any such Proprietary Information or data have been destroyed.
- d. **Use of Proprietary Information.** It is understood and agreed that neither Party will acquire any right, title or interest in or to any of the other Party's Proprietary Information, regardless of its form. The Parties' only legitimate interest in such Proprietary Information shall be in connection with the furtherance of its duties and obligations with respect to the provision of Supplies hereunder. Each Party agrees not to make use of the other Party's Proprietary Information for its sole benefit, or for the benefit of any other party, apart from the business purpose of supplying the Supplies hereunder, or for any other purpose.
- e. **Injunction Against Unauthorized Disclosure of Proprietary Information.** The Recipient acknowledges that if the Recipient fails to comply with any of its obligations hereunder, the Discloser may suffer immediate, irreparable harm for which monetary damages may not be adequate. The Recipient agrees that, in addition to all other remedies provided at law or in equity, the Discloser shall be entitled to injunctive relief hereunder.
- f. **Survival.** The foregoing commitments of each Party in this Section 14 ("**Confidential Information**") shall survive termination of the Order for any reason, and shall remain in effect for a period of five (5) years following any termination of the Order, except that any of Discloser's Proprietary Information qualifying as a trade secret under the relevant law shall be subject to the confidentiality and non-use obligations of the Order for so long as they are protectable as a trade secret.

- 15. Insurance.** Seller shall be solely responsible for maintaining adequate health, automobile, workers' compensation, unemployment compensation, disability, liability, and other insurance, as is required by law or as is the common practice in Seller's trades or businesses. Seller agrees to furnish to QCi promptly upon request a certificate from its insurance brokers

or agent showing that it carries Workers' Compensation insurance at statutory limits with employer's liability coverage of not less than \$1,000,000 per occurrence, Commercial General Liability insurance (including products-completed operations and contractual liability coverage applicable to this Order) with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, automobile liability insurance with a combined single limit of not less than \$1,000,000, and, where the Order involves professional, design, or data services, errors and omissions and/or cyber liability coverage of not less than \$1,000,000 per claim. Seller shall give QCi thirty (30) days prior written notice of any lapse or cancellation of any policy. QCi shall be shown as an Additional Insured on the Commercial General Liability policy reflected on the certificate of insurance for all Orders involving services, and each liability policy shall include a waiver of subrogation in favor of QCi. If Seller is self-insured for Workers Compensation coverage, it will provide the applicable state certificate establishing such status to QCi upon request. Seller hereby waives all mechanics' liens and claims and agrees that none shall be filed or maintained against QCi's premises on account of any Supplies and shall cause all its subcontractors, materialmen and suppliers (and subcontractors of such parties) to provide similar waivers and agreements in form satisfactory to QCi. Upon QCi's request, and as a condition of each progress or final payment, Seller shall deliver interim or final lien waivers from Seller and its subcontractors and suppliers in form reasonably satisfactory to QCi.

16. LIMITATION OF LIABILITY. QCi'S SOLE LIABILITY UNDER THE ORDER (INCLUDING UPON AND AFTER ITS TERMINATION, EXPIRATION OR CANCELLATION) IS TO PAY FOR THE SUPPLIES THAT CONFORM TO THE TERMS OF THIS ORDER AND ARE ACCEPTED AND TO PAY THE SPECIFIC TERMINATION-RELATED AMOUNTS. IN NO EVENT SHALL QCi BE LIABLE FOR ANY INDIRECT, ANTICIPATED OR LOST PROFITS, INTEREST, PENALTIES OR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, MULTIPLE, OR EXEMPLARY DAMAGES OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS ORDER, REGARDLESS OF THE NATURE OF SELLER'S CLAIMED INJURY OR THE NATURE OF THE LEGAL CLAIM UNDER WHICH SELLER SEEKS TO RECOVER, AND WHETHER OR NOT QCi WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

17. Assignment. Seller shall not assign nor delegate its duties or obligations for the Order without prior written consent from QCi. Any purported assignment or delegation in violation of this Section is null and void and constitutes a material breach of the Order. Any subcontracting, assignment or delegation does not relieve Seller of any responsibility under this Order. QCi may assign the Order, in whole or in part, to any affiliate or in connection with any merger, reorganization, or sale of assets or equity, without Seller's consent.

18. Remedies. If Seller breaches these Terms, the Parties agree that QCi shall have all remedies available by law and in equity. To the extent QCi does not have an adequate remedy at law, QCi is entitled to an immediate order for specific performance of Seller's obligations (including related temporary and preliminary injunctive relief). QCi shall recover actual and reasonable attorney's fees (including the cost of in-house counsel) in any action arising out of this Order, unless Seller is the prevailing party. QCi's rights and remedies shall be cumulative and shall be in addition to any other rights or remedies provided by law. Either Party's failure to insist on the performance by the other Party of any term or failure to exercise any right or remedy reserved in this Order, or either Party's waiver of any breach or default hereunder by the other Party shall not, thereafter, waive any other terms, conditions, rights, remedies, breaches or defaults, whether of the same or a similar type or not.

19. Governing Law and Jurisdiction. The validity, interpretation, construction and performance of the Order, and all acts and transactions pursuant hereto and the rights and obligations of the Parties hereto shall be governed by, subject to, construed and interpreted in accordance with the laws of the State of New Jersey without giving effect to principles of conflicts of law. The provisions of the United Nations Convention on the International Sale of Goods shall not apply to the Order. In any action between the Parties hereto to enforce or interpret the provisions of the Order, the Parties each agree to submit to the exclusive jurisdiction of the United States District Court for the District of New Jersey and the state courts of the State of New Jersey, and Seller waives all objections to such jurisdiction or argument that such courts are an inconvenient forum. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL SUIT, ACTION, OR PROCEEDING ARISING OUT OF OR RELATING TO THE ORDER.

- 20. International Trade Compliance.** The Parties agree to conduct all operations under the terms of this Order in strict compliance with all applicable import, export, reexport and foreign trade control statutes, laws, regulations, enactments, directives and ordinances of any governmental authority with jurisdiction over such operations then in effect (“**International Trade Laws**”) in connection with the performance of its obligations under this Order. Each Party shall be responsible for obtaining any necessary authorizations required by International Trade Laws applicable to any Party’s import, export, reexport or other foreign trade activity in connection with the performance of its obligations under this Order. Seller will cause the obligations of this Section to be imposed upon any party from which information, technology, materials or services are procured in connection with the Order, including any supplier or subcontractor. Upon request, Seller shall provide to QCi appropriate certification stating the country of origin for goods sufficient to satisfy U.S. Customs authorities and any applicable export licensing regulation. If goods are imported, Seller shall be the importer of record. Upon request, Seller shall promptly furnish to QCi all certificates of origin or domestic value-added and all other information relating to the costs and places of origin of the Supplies as may be required by QCi to comply with all applicable laws. Upon request and upon any change in classification, Seller shall provide QCi with the export classification (United States Munitions List category or Export Control Classification Number, as applicable), Harmonized Tariff Schedule code, and country of origin for all Supplies and related technical data. Seller shall notify QCi in writing before performance if any Supplies or technical data to be provided under the Order are subject to the International Traffic in Arms Regulations and, if so, Seller represents and warrants that it is and shall remain registered with the U.S. Department of State’s Directorate of Defense Trade Controls to the extent required. Seller represents and warrants that neither Seller nor any of its affiliates is (x) identified on any applicable U.S. Government restricted party list, including the Specially Designated Nationals and Blocked Persons List, the Entity List, the Denied Persons List, the Unverified List, and the ITAR Debarred List, or (y) owned fifty percent (50%) or more, individually or in the aggregate, or controlled, by any party so identified. Seller shall not permit any foreign person to access any export-controlled technical data furnished by QCi except as authorized in advance by QCi and as permitted under applicable International Trade Laws.
- 21. Compliance with Laws, Standards, Policies, and Hazardous Materials.** Seller agrees to comply with all applicable laws, rules, regulations, ordinances or other requirements of any national, state, provincial, local, multi-national or international body (collectively “**Laws**”) relating to the manufacture, sale, delivery and use of the Supplies. Seller shall conform with all quality control, validation, testing and other standards and inspection systems and participate in QCi’s supplier quality and development programs as directed by QCi. Seller agrees to comply with all Laws relating to any hazardous or restricted material applicable to the Supplies, to inform QCi of its use of such materials, and to provide sufficient documents and information (including appropriate labels, containers and packing, and handling, disposal and recycling instructions, material safety data sheets and certificates of analysis) for any such materials.
- 22. Severability.** If one or more provisions of this Order are held to be unlawful, unenforceable, or invalid by a court of competent jurisdiction, then such provision will be enforced to the maximum extent permissible to effect the intent of the Parties. The remainder of the agreement will continue in full force and effect.
- 23. No Publicity.** Except as otherwise required by law or SEC regulation, Seller shall not publicize or disclose the relationship between the Parties, the existence of terms and conditions of the Order, or any transactions hereunder, without the express, prior written consent of QCi.
- 24. U.S. Government Contract Flow-Downs.** If the purchase order identifies a U.S. Government prime contract or higher-tier subcontract supported by the Order, the provisions of the QCi U.S. Government clauses document identified in, or attached to, the purchase order (setting forth the Federal Acquisition Regulation (“FAR”), Defense Federal Acquisition Regulation Supplement (“DFARS”), and other agency-supplement clauses applicable to the Order) are incorporated into the Order by reference and shall prevail over any conflicting provision of these Terms. Where the context requires, references in such clauses to the “Government” or the “Contracting Officer” shall mean QCi, references to the “Contractor” shall mean Seller, and references to the “contract” shall mean the Order.
- 25. Counterfeit Parts Prevention.** Seller shall deliver only new and authentic Supplies and shall not deliver any counterfeit or suspect counterfeit parts or materials. Seller shall purchase all electronic parts and components included in the Supplies only from the original component manufacturer or original equipment manufacturer, or their authorized distributors, or, with QCi’s prior written consent, from other sources with full supply-chain traceability to the original manufacturer, which

traceability documentation Seller shall maintain and provide to QCi upon request. If any counterfeit or suspect counterfeit parts are delivered, Seller shall, at its expense, promptly replace them with authentic conforming parts and shall be liable for all costs of removal, reinstallation, rework, and reinspection. QCi may report counterfeit or suspect counterfeit parts to the Government-Industry Data Exchange Program (GIDEP) and to governmental authorities without liability to Seller.

- 26. QCi-Furnished Property.** All material, tooling, dies, molds, fixtures, test equipment, designs, drawings, specifications, software, and other property furnished to Seller by QCi, or paid for by QCi, in connection with the Order (“QCi Property”) is and shall remain the property of QCi. Seller shall clearly mark QCi Property as the property of QCi, keep it segregated and free of liens and encumbrances, use it solely to perform Orders for QCi, maintain it in good condition at Seller’s expense, bear all risk of loss of or damage to it while in Seller’s possession or control, and return it to QCi promptly upon request in as good condition as received, ordinary wear and tear excepted.
- 27. Force Majeure.** Neither Party shall be liable for any delay or failure to perform (other than Seller’s obligations with respect to QCi Property and Proprietary Information and either Party’s obligation to pay amounts due for Supplies already delivered and accepted) to the extent caused by an event beyond that Party’s reasonable control and without its fault or negligence, provided that the affected Party gives the other Party written notice within five (5) days of the event describing the event and its expected duration and uses commercially reasonable efforts to mitigate its effects and resume performance. Changes in cost or availability of materials, components, labor, or transportation, and economic hardship, shall not constitute force majeure events. If Seller’s delivery of Supplies is delayed by a force majeure event by more than thirty (30) days, QCi may terminate the affected Order, in whole or in part, without liability.
- 28. Notices.** All notices required or permitted under the Order shall be in writing and addressed to the receiving Party at the address set forth on the face of the purchase order, or to such other address as the receiving Party may designate in writing, and shall be delivered by personal delivery, nationally recognized overnight courier (with all fees prepaid), email, or certified or registered mail (return receipt requested, postage prepaid). A notice is effective upon receipt by the receiving Party.
- 29. Relationship of the Parties; No Third-Party Beneficiaries; Survival.** The relationship between the Parties is that of independent contractors, and nothing in the Order shall be construed as creating any agency, partnership, joint venture, employment, or fiduciary relationship between the Parties. The Order is for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing in the Order confers upon any other person or entity any legal or equitable right, benefit, or remedy, except that the indemnitees identified in Section 12 may enforce the rights expressly stated for their benefit. Provisions of the Order which by their nature should survive its termination or expiration shall so survive, including, without limitation, Sections 10 through 14, 16, and 18 through 26.