

General Terms and Conditions for the Sale of Services

1. Applicability.

(a) These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the services ("**Services**") by the entity identified as the seller in the Sales Confirmation (as defined below), which shall be Quantum Computing, Inc. or one of its subsidiaries and affiliates EM4, LLC, Freedom Photonics, LLC, NuCrypt LLC, Nhanced Semiconductors, Inc., and OptoGration Inc. ("Seller") to the buyer ("**Buyer**"). Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Services covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

(b) The accompanying quotation and order confirmation (the "**Sales Confirmation**") and these Terms (collectively, this "**Agreement**") comprise, except as provided in Section 1(a), the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

(c) Notwithstanding anything to the contrary contained in this Agreement, Seller may, from time to time change the Services without the consent of Buyer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Sales Confirmation.

(d) Any prototypes delivered to Buyer are not being released for serial production nor fully analyzed or specified, and are for testing purposes only.

2. Performance of Services.

(a) Seller shall use reasonable efforts to meet any performance dates to render the Services specified in the Sales Confirmation, and any such dates shall be estimates only.

(b) Buyer shall (i) cooperate with Seller in all matters relating to the Services and provide such access to Buyer's premises, and such office accommodation and other facilities as may reasonably be requested by Seller, for the purposes of performing the Services; (ii) respond promptly to any Seller request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Seller to perform Services in accordance with the requirements of this Agreement; (iii) provide such customer materials or information as Seller may request to carry out the Services in a timely manner and ensure that such customer materials or information are complete and accurate in all material respects; and (iv) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

3. Buyer's Acts or Omissions. If Seller's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Buyer or its agents, subcontractors, consultants, or employees, Seller shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Buyer, in each case, to the extent arising directly or indirectly from such prevention or delay.

4. Price.

(a) Buyer shall purchase the Services from Seller at the price[s] (the "**Price[s]**") set forth in the Sales Confirmation.

(b) Buyer agrees to reimburse Seller for all reasonable travel and out-of-pocket expenses incurred by Seller in connection with the performance of the Services.

(c) All Prices are exclusive of all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any Governmental Authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs and taxes; provided, that, Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller's income, revenues, gross receipts, personal or real property, or other assets.

5. Payment Terms.

(a) Unless otherwise stated in the Sales Confirmation, and subject to credit approval by Seller, Buyer shall pay all invoiced amounts due to Seller within thirty (30) days from the date of Seller's invoice. Buyer shall make all payments hereunder by wire transfer, check, or Automated Clearing House payment, and in US dollars.

(b) Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend the performance of any Services if Buyer fails to pay any amounts when due hereunder and such failure continues for three (3) days following written notice thereof.

(c) Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

6. Limited Warranty.

(a) Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

(b) EXCEPT FOR THE WARRANTIES SET FORTH IN SECTION 6(a), SELLER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

(c) The Seller shall not be liable for a breach of the warranty set forth in Section 6(a) unless: (i) Buyer gives written notice of the defective Services, reasonably described, to Seller within 15 days of the time when Buyer discovers or ought to have discovered the defect and, in any event, within ninety (90) days after performance of the applicable Services; and (ii) Seller reasonably verifies Buyer's claim that the Services are defective.

(d) Subject to Section 6(c) above, with respect to any Services subject to a claim under the warranty set forth in Section 6(a), Seller shall repair or re-perform the applicable Services.

(e) ANY PROTOTYPES SUPPLIED BY SELLER TO BUYER ARE ON AN "AS IS" BASIS, WITH ALL DEFECTS AND WITHOUT WARRANTY OF ANY KIND.

(f) THE REMEDIES SET FORTH IN SECTION 6(d) SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 6(a).

7. Limitation of Liability.

(a) IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE SERVICES SOLD HEREUNDER.

(c) The limitations of liability set forth in Section 7(a) and Section 7(b) shall not apply to (i) liability resulting from Seller's gross negligence or willful misconduct and (ii) death or bodily injury to the extent caused by Seller's negligence.

8. Compliance with Law. Buyer shall comply with all applicable laws, regulations, and ordinances. Buyer shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.

9. Export Controls. Buyer understands that the export and re-export of the Services, any deliverables provided in connection therewith, and any related software, technical data, technical assistance, or technology are subject to U.S. and foreign export controls and sanctions including but not limited to the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. Parts 120–130), the Export Administration Regulations ("EAR") (15 C.F.R. Parts 730–774), the regulations administered by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") (31 C.F.R. Parts 500–598), and all other applicable U.S. Government regulations relating to the importation of goods into the United States (including, but not limited to, the regulations administered by U.S. Customs and Border Protection ("CBP") at 19 C.F.R. Parts 0–199 and other import regulations promulgated by other U.S. agencies which may be enforced by CBP) (collectively "Export Controls"). Buyer agrees to comply, and will ensure that its affiliates comply, with all applicable Export Controls, and to obtain all required U.S. and foreign Export Controls licenses and authorizations at Buyer's expense. Buyer shall indemnify and hold Seller harmless for any fines and other costs incurred by Seller for any failure of Buyer or its affiliates to comply with the Export Controls. Buyer represents and warrants that neither Buyer nor any of its affiliates, nor any party to which Buyer will sell, transfer, or provide access to the Services or any deliverables or related technology, 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. Buyer shall not use, sell, resell, export, re-export, transfer, or divert any deliverables or related technology (i) to or for any such party, (ii) to or for any end use or end user prohibited or restricted under Part 744 of the EAR, including any weapons of mass destruction, missile, military, or military-intelligence end use or end user, or (iii) to any destination subject to a comprehensive U.S. embargo, in each case except as authorized by the U.S. Government. Seller may withhold, suspend, cancel, or decline performance under this Agreement, in whole or in part and without liability to Buyer, if any required export license or authorization is not granted, is delayed, or is revoked, or if Seller determines in good faith that performance would violate any Export Controls. Upon Seller's request, Buyer shall promptly provide end-use, end-user, and destination information and documentation with respect to the Services and any deliverables.

10. Termination. In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (a) fails to pay any amount when due under this Agreement; (b) has not otherwise performed or complied with any of these Terms, in whole or in part; or (c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

11. Change and Cancellation.

(a) Buyer may not cancel or change this Agreement or any order of Services, adjust the type, volume, delivery terms or price, suspend or reschedule any performance or deliveries by Seller or price for any reason, without Seller's written consent, which consent may be withheld or conditioned in Seller's sole and absolute discretion. Any agreed upon changes shall be effected by a written change order.

(b) Any request by Buyer for changes to the scope of Services shall be subject to the Seller's written consent and shall entitle Seller to modify the price of the Services and any other terms of the Agreement affected by such change, including without limitation performance dates. Buyer shall pay any additional costs incurred by Seller, and any price increases, determined reasonable by Seller in its sole discretion, in connection with any change requested by Buyer, interruption of production caused directly or indirectly by the Buyer or other act, omission, breach or default of Buyer.

(c) In the event of any cancellation or termination of any order for Services for any reason, Buyer, in addition to and not to the exclusion of Seller's other remedies at law, equity, or under this Agreement, shall pay to Seller on Seller's demand the following amounts which shall be invoiced by Seller: (i) the price for all Services performed, (ii) for Seller's work-in-process and raw materials purchased by Seller in furnishing the Services, to the extent not included in clause (i), in the amount equal to Seller's actual full cost including burden and overhead costs as determined by Seller in accordance with Seller's standard accounting practices, plus a charge for any packing and storage, (iii) Seller's actual costs of settling all claims with subcontractors and suppliers utilized in connection with the Agreement, (iv) Seller's actual cost to store the items to be purchased and, if necessary, relocate production to an alternate source, (v) any unamortized tooling costs, development/design costs engineering costs, start-up costs, program capital costs and supplies that are unique to the Services, (vi) Seller's expected profit on the unperformed portion of the Agreement, and (vii) Seller's incidental and consequential damages resulting from the termination or breach by the Buyer, including but not limited to, any costs for advanced purchasing of essential items and technical support, attorneys' fees and other professional fees incurred by Seller as a result of the termination or breach.

(d) Upon cancellation or termination of any order for Services, all work on the order shall be stopped as promptly as reasonably possible by Seller.

12. Waiver. No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

13. Confidential Information. All non-public, confidential or proprietary information of Seller, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Seller to Buyer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with this Agreement is confidential, solely for the use of performing this Agreement and may not be disclosed or copied unless authorized in advance by Seller in writing. Upon Seller's request, Buyer shall promptly return all documents and other materials received from Seller. Seller shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Buyer at the time of disclosure; or (c) rightfully obtained by Buyer on a non-confidential basis from a third party.

14. Intellectual Property. Any Intellectual Property developed, owned, or licensed by Seller prior to or during the performance of this Agreement shall remain the exclusive property of Seller and its licensors, as the case may be. Seller shall own all rights title, and interest in, and to, the Services technology and design. Nothing in this Agreement shall be deemed to grant Buyer any license or any other right in such Intellectual Property. The term "Intellectual Property" shall include without limitation all of the following: (i) inventions, discoveries, patents, patent applications and all related continuations, divisional, reissue, utility model, design patents, applications and registrations thereof, (ii) works, copyrights, registrations and application for registration thereof, (iii) computer software programs, data and documentation, (iv) trade secrets, confidential information, know-how, techniques, designs, prototypes, enhancements, improvements, work-in-progress, research and development information, and (v) all other proprietary rights relating to the foregoing. Should third-party Intellectual Property rights be violated by Seller's Services based on technical drawings or other data from Buyer, then Buyer shall defend, indemnify, and hold harmless Seller and its Affiliates for all third-Party Intellectual Property infringement claims. Subject to Buyer's payment in full of all amounts due hereunder, Seller grants Buyer a limited, non-exclusive, non-transferable, non-sublicensable license to use the reports, data, and other work product delivered to Buyer under this Agreement (the "Deliverables") solely for Buyer's internal business purposes. As between the parties, Seller retains all right, title, and interest in and to the Deliverables and all Intellectual Property embodied therein.

15. No Reverse Engineering. Buyer shall not modify, de-compile, disassemble, reverse engineer, create other works from, or use any other process to gain access to the underlying design information or source code of any object or executable code, encrypted or other obfuscated information, prototype, sample or tangible object that may be disclosed hereunder.

16. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations of Buyer to make payments to Seller hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, epidemics, explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) other events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of thirty (30) days following written notice given by it under this Section 16, either party may thereafter terminate this Agreement upon ten (10) days' written notice.

17. Assignment. Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Seller. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Buyer of any of its obligations under this Agreement.

18. Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or

fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

19. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms.

20. Governing Law. All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal 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 this Agreement.

21. Submission to Jurisdiction. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the United States District Court for the District of New Jersey or the courts of the State of New Jersey. Each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding, and waives all objections and any argument that such forum is an inconvenient or otherwise inappropriate 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 THIS AGREEMENT.

22. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of the Sales Confirmation or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), email, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

23. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

24. Survival. Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement including, but not limited to, the following Sections: 5, 6, 7, 8, 9, 11, 13, 14, 15, 19, 20, 21, and 26.

25. Amendment and Modification. These Terms may only be amended or modified in a writing stating specifically that it amends these Terms and is signed by an authorized representative of each party.

26. U.S. Government Sales. The Services are commercial services, and any deliverables, software, technical data, and documentation provided in connection with the Services are "commercial products," "commercial computer software," and "commercial computer software documentation," and constitute technical data developed exclusively at private expense, as such terms are defined or used in the Federal Acquisition Regulation ("FAR") and the Defense Federal Acquisition Regulation Supplement ("DFARS"). If Buyer procures the Services in support of a prime contract or subcontract with the U.S. Government, any use, modification, reproduction, release, performance, display, or disclosure of such deliverables, software, documentation, and technical data by the U.S. Government shall be governed solely by the terms of this Agreement to the extent permitted by FAR 12.212 and DFARS 227.7202 and 252.227-7015. Seller accepts no FAR or DFARS clauses or other U.S. Government flow-down provisions except those, if any, that apply mandatorily by operation of law or regulation to subcontracts for commercial products or commercial services, and then only to the extent so mandated. No certified cost or pricing data requirements or cost accounting standards shall apply to Seller or to any order under these Terms.