

Vendor Terms and Conditions

1. **ACCEPTANCE.** Acceptance of this purchase order is expressly limited to the terms hereof. No terms and conditions other than those set forth in this purchase order, including any terms and conditions in any document attached to or incorporated by reference in this purchase order, shall be binding upon Buyer unless consented to by it in writing signed by an authorized representative of the Buyer. The terms and conditions contained in any oral or written acknowledgment of this purchase order which are different from or in addition to the terms and conditions of this purchase order are hereby objected to by Buyer without need of further objection and shall be of no effect nor in any circumstances binding upon Buyer. Seller will be deemed to have assented to all terms and conditions contained herein if any part of the goods or material covered by this purchase order is shipped. This purchase order contains all the terms and conditions of the purchase agreement and shall constitute the complete and exclusive agreement between Seller and Buyer.
2. **TIME OF DELIVERY.** Time of delivery is of the essence in this purchase order. In case of Seller's failure to make delivery at the time or times stated in this purchase order, Buyer reserves the right to cancel the purchase order or purchase the goods elsewhere and charge Seller with any excess cost and expense or loss incurred thereon, unless deferred shipment be provided for in writing.
3. **QUANTITY.** Shipment must equal exact amounts ordered unless otherwise agreed to by Buyer. Buyer reserves the right to return at Seller's expense all goods or material delivered in error or in excess of the quantity called for in the purchase order.
4. **CHARGES.** Buyer shall have the right to make changes in this purchase order by notice in writing to Seller, and if such changes should cause an increase or decrease in the amount due under this purchase order or in the time required for its performance, an equitable adjustment shall be made and this purchase order shall be modified in writing accordingly. Any claim for adjustment must be asserted by Seller in writing within fifteen (15) days from the date the change is ordered. Nothing contained in this clause shall absolve Seller from proceeding without delay in performance of this purchase order.
5. **SELLER'S WARRANTIES.** In accepting this purchase order, Seller unconditionally represents and warrants to Buyer, notwithstanding any other representation to the contrary, that the goods or material supplied to Buyer under this purchase order shall be of good and merchantable quality and fit for Buyer's intended uses and purpose. If any of the goods or material is found at any time to be defective in material or workmanship, or otherwise not in conformity with the requirements of this purchase order, Buyer, in addition to any other rights which it may have under warranties or otherwise, may, at its option, return such goods or material to Seller at Seller's expense. Such goods or material is not to be replaced except upon receipt of written instructions from Buyer. Rejection of any part of the goods or material furnished under this purchase order does not invalidate the remainder of the purchase order. Seller agrees to defend at its expense all claims and suits asserted or brought against Buyer based upon any such alleged defects and to indemnify and save Buyer harmless from any claims, suits and judgments arising from Seller's failure to meet the requirements of this condition.
6. **CASH DISCOUNT.** When acceptable invoices subject to cash discount are not mailed on the date of shipment or are not accompanied by a bill of lading, the cash discount period shall be calculated commencing with the date both invoice and bill of lading are received by Buyer.
7. **INDEMNIFICATION.** In accepting this purchase order, Seller agrees to protect, indemnify and save harmless Buyer against any and all liability, damage, judgment expense or loss, including counsel fees, resulting from or sustained by reason of any suit against Buyer charging misappropriation of trade secrets or infringement of a patent, trademark, trade name or copyright by any goods furnished under this purchase order, any element of

Proterial Cable America, Inc.

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such goods or by use of such goods. This right is optional with the Buyer and is additional to any other rights or remedies of the Buyer at law, in equity or as provided in this purchase order.

8. SET-OFF. Buyer shall be entitled at all times to set-off any amount owing from Seller to Buyer or any of its affiliated companies against any amount due or owing to Seller with respect to this purchase order.
9. NON-DISCRIMINATION IN EMPLOYMENT. Seller must comply with applicable provisions of Section 202 of Executive Order 11246, and the implementing rules and regulations of the Office of Federal Contract Compliance, prohibiting discrimination in employment. All other rules, regulations and relevant orders of the Secretary of Labor are incorporated herein by reference.
10. TAX EXEMPT NUMBER. Buyer provide no tax exempt number in this purchase order as New Hampshire collects no sales tax and thus provides tax exempt status.
11. COMPLIANCE WITH ALL LAWS. Seller agrees to comply with all Federal, State and Municipal laws, rules and regulations, and laws, rules and regulations which are or may become applicable to this purchase order.
12. ASSIGNMENTS AND GOVERNING LAW. Neither party hereto my assign its rights or obligations hereunder except by mutual agreement in writing. This purchase order shall be governed by and construed in accordance with the laws of the State of New Hampshire.
13. ARBITRATION. Any controversy or claim arising out of or relating to this purchase order or any breach thereof shall be settled by arbitration in the City of New York, New York exclusively in accordance with the rules then obtaining of the American Arbitration Association. Judgment upon the award of the arbitrators may be entered in the courts of any state of competent jurisdiction. The parties consent that any notice to arbitrate or any notice in connection with such arbitration and any process or notice or other judicial document in connection with the entry or enforcement or such judgment may be served outside the State of New Hampshire by registered mail or by personal service, provided that a reasonable time for appearance is allowed.

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