

## Corning Cable Systems LLC Terms and Conditions of Purchase

1. **ACCEPTANCE:** This order is expressly conditioned upon Seller's agreement that the terms and conditions set forth herein shall be the sole and exclusive terms and conditions applicable to Buyer's purchase of the goods and/or services listed and/or described herein or on the purchase order related hereto (the "goods"). Buyer shall not be bound by any terms or conditions contained in Seller's quotation or order acknowledgment forms or otherwise proposed by Seller, which are additional to or different from the terms and conditions set forth herein, unless an authorized representative of Buyer expressly agrees thereto in a writing that references such intent. In the absence of such agreement by Buyer, any performance by Seller pursuant to this order, including, without limitation, the manufacture or shipment of any goods shall be deemed to be solely upon the terms and conditions set forth herein. These terms and conditions incorporate by reference Buyer's "Restriction of Substances," which may be found at <http://www.corning.com/WorkArea/showcontent.aspx?id=1347>. Seller's acceptance of this order and the shipment of goods to Buyer shall constitute Seller's agreement with each of these Buyer terms, including Buyer's Restriction of Substances Policy.
2. **PRICE AND PAYMENT:** (a) All sales, use, excise, or similar taxes must be itemized separately. (b) No charge for packing, crating, cartage, returnable containers or similar items or services will be accepted and paid by Buyer unless agreed to in writing prior to shipment and itemized separately. (c) Payment for goods or services purchased by Buyer may be made directly by Corning Incorporated. Any such payment by Corning Incorporated is for purposes of administrative convenience only and shall in no way be construed as a guarantee of Buyer's obligations or liabilities.
3. **DELIVERY:** Time is of the essence. If Seller fails to ship any goods on or before the date promised, Buyer shall have the right to cancel this order, without liability to itself, for any goods not yet shipped.
4. **INSPECTION:** Buyer shall have the right to inspect the goods after they are received at the destination specified in its purchase order. Rejected goods shall be held at Seller's expense for Seller's instructions. Payment for the goods shall not constitute acceptance thereof.
5. **WARRANTIES:** For a period of two (2) years after receipt and acceptance of goods by Buyer from Seller, Seller warrants that all such goods shall (a) conform to the specifications, drawings, samples, and/or other descriptions of Seller and those furnished or approved by Buyer, (b) be fit and sufficient for the purpose intended, (c) be merchantable, (d) be of good material and workmanship, and (e) be free from defects. These warranties shall be in addition to any other warranties imposed by law, and to those customarily extended by Seller to its customers. All warranties shall survive inspection, tests, acceptance, and payment; and, shall run to Buyer, its successors, assigns and its customers.
6. **RISK OF LOSS:** The risk of loss of or damage to the goods shall not pass to Buyer until the goods are received by Buyer at the destination specified in the purchase order or herein. Risk of loss of or damage to rejected goods shall pass to Seller at the time of rejection.
7. **CHANGES:** Buyer shall have the right to make changes at any time, by written direction to Seller, in drawings, specifications, designs, quantities, places and times of delivery, and/or methods of packaging. If any such change results in an increase or decrease in the cost of or time necessary for performance, an equitable adjustment of price and/or delivery schedule mutually satisfactory to Buyer and Seller may be made. Seller's claim for an equitable adjustment will be deemed to have been waived unless asserted by Seller within fifteen (15) days after receipt of Buyer's change order.
8. **BUYER'S PROPERTY:** Unless otherwise agreed in writing by an authorized representative of Buyer, all drawings, sketches, blueprints, specifications, designs, models, tools, molds, jigs, dies, patterns and other materials furnished or paid for by Buyer in connection with any purchase order shall be and remain the property of Buyer, shall at all times be identified as such and segregated from similar property of others, shall be used only in filling Buyer's orders and shall be delivered to Buyer or otherwise disposed of in accordance with Buyer's instructions upon completion, termination, or cancellation of this order or upon Buyer's demand prior thereto. Seller assumes all risk and liability for loss of or damage to Buyer's property in Seller's custody or control, except for normal wear and tear, and shall insure the said property at Seller's expense for an amount at least equal to the replacement cost thereof, with losses payable to Buyer. Seller shall furnish copies of policies or certificates of such insurance to Buyer upon demand.
9. **COMPLIANCE WITH LAWS:** Seller warrants that in the performance of this purchase order it will comply with all applicable Federal, state and local laws, regulations, orders and other directives issued pursuant thereto. Seller shall certify on all invoices that the goods were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219), Sections 6, 7, and 12, as amended; the Walsh-Healey Public Contracts Acts (41 U.S.C. 35-45); laws prohibiting the use of convict labor, and of regulations and orders of the United States Department of Labor issued under Section 17 thereof, as amended from time to time, all other federal, state and local laws, all regulations and orders issued under any applicable law. Seller warrants that the equipment to be furnished hereunder complies with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651-678) and the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263 b-n) and all applicable regulations and standards promulgated thereunder.
10. **GENERAL INDEMNITY:** Seller shall indemnify and hold harmless, Buyer, its successors, assigns, agents, customers, and users of its products against all loss, damage or liability including without limitation, costs, expenses, and attorneys' fees and expenses resulting from any claim arising out of or relating to the goods or services provided by Seller.
11. **INTELLECTUAL PROPERTY WARRANTY AND INDEMNITY.** Seller warrants that the goods delivered to Buyer hereunder, and the use of the goods for their normal purposes, will be free from any claims of alleged infringement of patent, copyright, trade mark, service mark, trade secret or any other intellectual property right of any other party. If any third party asserts any such claim or allegation against Buyer or its customers, Seller shall defend, indemnify and hold harmless Buyer and its customers from and against any and all costs (including reasonable attorneys' fees incurred), expenses, losses, damages, liabilities, penalties, or judgments relating to such claim or allegation.
12. **CONFIDENTIALITY.** All data and other information obtained by Seller from Buyer in connection with this Agreement shall be held in strict confidence by Seller and used solely for the purposes originally intended in connection with this Agreement. Seller shall treat such data and information with the same degree of confidence that it uses to protect its own proprietary or confidential information (but not less than a reasonable standard of care) and shall ensure that each of its employees to whom such data or information is known is bound to maintain the confidentiality of such data or information by separate agreement with Seller or by operation of law.
13. **ASSIGNMENT:** Seller shall not assign any purchase order in whole or in part or any interest herein without Buyer's prior express written consent and any purported assignment made without such consent shall be void.

14. **PUBLICITY:** Seller shall submit to Buyer all advertising, sales promotion and other publicity matter relating to the subject matter of this Agreement wherein Buyer's name or names are mentioned or language or symbols are used from which the connection of Buyer's name or names therewith may be reasonably inferred or implied. Seller shall not publish or use such advertising or other publicity matter without Buyer's prior written approval.
15. **TERMINATION AND CANCELLATION:** Buyer shall have the right to terminate this purchase order in whole or in part at any time upon notice to Seller. In the event of such a termination, Buyer's sole and only liability to Seller shall be Seller's reasonable cost of performance incurred prior to termination in connection with completed and partially completed goods, work in progress and raw materials therefor in Seller's possession at the time of termination. In no event, however, shall Buyer's liability exceed the price specified herein for such goods.
16. **RIGHTS AND REMEDIES:** Buyer's rights and remedies set forth herein shall not be exclusive but shall be cumulative and in addition to all other rights and remedies available to Buyer in law or equity.
17. **NO WAIVER:** Buyer may only waive a breach of a provision hereof in a writing specifically referencing such intent and no waiver shall constitute or be deemed to be a waiver of any other breach or provision hereof.
18. **HEADINGS:** The paragraph headings contained herein are for reference only and shall not affect in any way the meaning and interpretation of the terms and conditions set forth herein.
19. **CHOICE OF LAW:** The laws of the State of North Carolina, without regard to conflicts of law principles of any jurisdiction, shall govern the validity, interpretation and enforcement of each purchase order. It is expressly agreed to exclude from this purchase order the United Nations Convention on Contracts for the International Sale of Goods, 1980, and any successor thereto.
20. **DISPUTES:** Any dispute arising under this purchase order which is not settled by agreement of the parties shall be settled by arbitration in Hickory, North Carolina, pursuant to the Rules of the American Arbitration Association then in effect. Seller expressly agrees and acknowledges that it shall be liable to Buyer for all costs and expenses incurred by Buyer, including attorneys' fees (whether in-house counsel at the rate of \$1,600 per day or retained counsel at its billed cost), if Seller files a legal action in any court arising out of this purchase order or commences arbitration or mediation proceedings in violation of this Section 18.
21. **BUYER APPROVALS AND REVIEWS:** The review or approval by Buyer of any work hereunder or of any designs, drawings, specifications or other documents prepared hereunder shall not (a) relieve Seller of any of its obligations under this purchase order; (b) excuse or constitute a waiver of any defects or non-conformities on any articles furnished under this purchase order; or (c) excuse or constitute a waiver of any defects or non-conformities on any articles furnished under this purchase order or change, modify or otherwise affect any of the provisions of this purchase order, including but not limited to, the prices and delivery schedules contained herein.
22. **HAZARDOUS MATERIALS:** Seller shall notify Buyer of every article ordered hereunder which contains material hazardous or injurious to the health or physical safety of persons even though said hazard or injury may only occur due to mishandling or misuse of the article and ozone layer of the earth. In addition, Seller shall identify such materials and notify Buyer of the effects of such material on human beings and the physical manifestations that could result. For each article so identified, Seller shall supply Buyer warning labels or instructional material appropriate to warn persons coming in contact therewith of the hazard and its effects.
23. **EQUAL OPPORTUNITY:** The provisions set forth in Executive Order 11246 dated September 24, 1965 (as amended) are incorporated herein by reference except to the extent this order may be exempt from the provisions of said Executive Order by the rules and regulations issued hereunder as said Executive Order, and rules and regulations may be amended from time to time. Seller agrees to comply with all applicable contract clauses required by federal, state or local law, rule, or regulation which shall be part of this contract/purchase order, including but not limited to the following which are incorporated by reference herein: Equal Opportunity Clause; Affirmative Action Clause of Disabled Veterans and Veterans of the Vietnam Era; Affirmative Action Clause for Handicapped Workers; and the Certification of Non-segregated Facilities Clause. Seller also agrees and certifies, if applicable, that it has developed a written affirmative action compliance program and annually files Standard Form 100 (EEO-1). In addition, Seller agrees to comply with all applicable federal laws and regulations regarding the utilization of small business concerns and/or small disadvantaged business concerns, including, if applicable, any subcontracting plans thereunder. Whenever the word "Contractor" appears in said provisions, it shall mean Seller.
24. **C-TPAT COMPLIANCE.** Seller acknowledges that Buyer participates in the Customs Trade Partnership Against Terrorism or "C-TPAT" program administered by the U.S. Customs and Border Protection ("CBP"). Seller agrees to take such reasonable measures as are required by Buyer and/or CBP to ensure physical integrity and security of all shipments to Buyer. Buyer reserves the right to audit Seller's security procedures and facilities concerning C-TPAT compliance.
25. **IMPORTER SECURITY FILING:** Seller agrees to provide Buyer or Buyer's agent with timely, accurate, and complete information with respect to all goods purchased or shipped pursuant to this Agreement as required for compliance with all applicable import regulations, including without limitation the Importer Security Filing ("10+2") regulation issued by U.S. Customs and Border Protection. Seller agrees to indemnify and hold Buyer harmless from and against all transportation-, detention-, or storage-related charges or fees and any government-assessed fees or penalties that Buyer incurs as a result of Seller's failure to provide the required information in a timely, accurate or complete manner.
26. **IF THIS ORDER IS PLACED UNDER A GOVERNMENT CONTRACT, THE FOLLOWING ADDITIONAL PROVISIONS ARE APPLICABLE:**
  - (a) **GOVERNMENT CONTRACT:** The work covered by this order relates to a prime contract with the United States Government and is within jurisdiction of a Department or Agency of the United States.
  - (b) **RIGHT OF INSPECTION:** On request, Seller will provide assistance to permit the Buyer or United States government representative to inspect the premises where and when the work is being performed and the Seller shall make available without cost adequate facilities for the inspection. Seller agrees that the Comptroller General of the United States, or any of his duly authorized representatives shall, until the expiration of three (3) years after the final payment under this order, have access to and the right to examine any books, documents, papers and records of Seller related to

this purchase order.

(c) **RIGHTS IN DATA:** If this order is placed under a Government contract having rights in data clauses of FAR 52.227-14 or DFAR 252.227-7013 the provisions are incorporated herein. Seller assumes the obligations of such FAR or DFAR clauses as they pertain to this order.

(d) **GOVERNMENT PROCUREMENT REGULATIONS:** The following clauses set forth in the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation (DFAR) as in effect on the date hereof, are incorporated herein by reference. Where necessary to make the context applicable hereto, the term "Contractor" shall mean Seller. "Government" and "Contracting Officer" shall mean Buyer or the Government, and "Contract" shall mean this order.

- FAR 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note))
- FAR 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities
- FAR 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246)
- FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).
- FAR 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793)
- FAR 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.)
- FAR 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g))
- FAR 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.)
- FAR 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. 351, et seq.)
- FAR 52.222-54, Employment Eligibility Verification (Jan 2009)
- FAR 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6
- FAR 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64

(e) The following provisions are incorporated herein and replace Article 13 "Termination and Cancellation:"

**TERMINATION:** (a) Buyer may terminate this order, in whole or in part, in accordance with the provisions of the "Default" clause set forth in FAR 52.249-8 if Seller fails to comply with any of the provisions hereof, or if Seller becomes the subject of a proceeding under state or federal law for relief of debtors or makes an assignment for the benefit of creditors. (b) Without affecting its right to terminate this order under paragraph (a) hereof, Buyer may, for its convenience, terminate this order in whole, or from time to time, in part, in accordance with the provisions of the "Termination" clause set forth in FAR 52.249-2. (c) The FAR clause referred to in paragraphs (a) and (b) are hereby incorporated herein by reference as in effect on the date hereof, with the following changes: the words "Government" and "Contracting Officer" shall mean Buyer, the word "Contract" shall mean this order and the word "Contractor" shall mean Seller.

27. **PRIORITIES AND ALLOCATIONS:** If this is a rated order issued under the Defense Priorities and Allocations Systems Regulation (15 C.F.R. 700), Seller is required to follow all the provisions of that regulation in filling this order and in obtaining items needed to fill this order.
28. **STOP WORK ORDER:** The provisions of the clauses contained in FAR 52.242-15 in effect on the date hereof are hereby incorporated herein by reference with the following changes: the words "Contracting Officer" and "Government" shall mean Buyer. The word "Contractor" shall mean Seller. The words "ninety (90) days" are hereby changed to one hundred (100) days; and the words "thirty (30) days" are hereby changed to twenty (20) days whenever they appear; and the reference to the "Termination for Convenience" clause shall be deemed to refer to paragraph (b) of the clause hereof entitled "Termination."
29. **NOTICE TO BUYER OF LABOR DISPUTES:** (a) Whenever Seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof, including all relevant information, with respect thereto to Buyer. (b) Seller agrees to insert the substance of this clause, including this paragraph (b), in any subcontract hereunder as to which a labor dispute may delay the timely performance of this order.