

**Hitachi Cable America Inc.**  
**Performance Cable Systems & Materials Division**  
**900 Holt Avenue**  
**Manchester, NH 03109**

**Tel (603) 669-4347**  
**Fax (603) 669-9621**

**Cable Assembly Terms and Conditions**

Tolerances, Limits, Colors and Sizes: Established by specification, agreed upon prior to acceptance; See also Custom Designs below.

Minimum Order: Defined in the governing Hitachi Cable quotation

Freight: Unless stated in the governing quotation, standard freight is Ex-Works, Hitachi-designated factory. Requests for alternate mode of shipments services will be accommodated at customer's expense.

Drop Shipments: Hitachi Cable reserves the right to apply up to a 10% Drop Ship fee at its discretion.

Returns: All assembled products are considered non-returnable. In rare cases, Hitachi Cable may accommodate inventory conversion.


Cancellations: Assembly orders may be fully cancelled if there is no raw material or open contract liability. In all other cases, cancelled orders will be subject to raw material, work-in-process and finished goods charges.

Custom Designs: All custom cable assembly designs require signed Buyer approval of Specifications prior to fabrication of Initial Pilot Production. All custom cable assembly designs require signed Buyer approval of First Article testing prior to fabrication of Full Ongoing Production delivery of the assemblies (from here referred to as Products), confirming that the Products meet those Specifications.

Payment Terms: Standard terms are Net 30 days.

**Other Terms & Conditions:**

1. This contract supersedes for all purposes all prior correspondence including: Buyers order of confirmation whether issued before or after this contract, and any part or future order confirmation or contract of any agent of either party with respect to the products covered by this contract. No waiver by Seller of any default or breach shall be deemed a waiver of any other prior or subsequent default or breach.
2. All Products sold hereunder are subject to the export control laws of the United States, and may not be transferred, sold or re-exported to any parties appearing on the Entity List or Restricted Person List of the U.S. Department of Commerce Bureau of Industry and Security; any party designated by the U.S. Treasury Department office of Foreign Asset Control, or to any party debarred or sanctioned for proliferation or terrorism reasons by the United States State Department. It is the responsibility of Buyer to insure strict compliance with all U.S. export control laws when re-exporting products to end users or ultimate consignees. Seller reserves the right to unilaterally suspend and/or cancel any order where Seller determines that Buyer is in violation of U.S. export control laws, or where Seller determines that there is a reasonable likelihood that Buyer intends to violate U.S. export control laws. Threatened noncompliance with U.S. export control laws will be deemed as an event excusing Seller's performance under paragraph 11 below. Buyer agrees to indemnify Seller against all losses and expenses associated with any violation by Buyer of U.S. export control law.
3. Orders are binding on both parties upon acceptance by Seller in writing on its Acknowledgment form, and until so accepted, Seller reserves the absolute and unqualified right to reject the same.
4. Buyer shall indemnify, defend and hold harmless Seller from and against any and all liability, loss, damage, cost and expense, including attorneys' fees and litigation expenses (collectively "Liability") arising out of any claim by any party which Seller may incur, suffer or be required to pay as a result of or arising in connection with (a) patent infringement arising out of the use of the Products which are the subject of this order (b) any claims for bodily injury, death, product liability, defective design, product recalls, misbranding, mislabeling, warranty of fitness or merchantability or property damage arising out of the use of the Products which is the subject of this order and (c) any actual or alleged violations of any applicable law or regulation by Buyer (including but not limited to adulteration, defective design, illegal promotion, misbranding, mislabeling, product recalls or otherwise not in compliance with any applicable law or regulation) arising out of the use of the Products which are the subject of this order.
5. No representative of the Seller is authorized to make any warranties, promises or representations as to any Product and none shall be binding upon the Seller except as expressly set forth herein.

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6. All Products sold are warranted to be free from defects in material and workmanship on the date of delivery of the Products to the delivery point stated. Seller makes no representation or warranty of any kind, either expressed or implied with respect to the products sold hereunder whether as to merchantability, fitness for a particular purpose, or any other matter. Unless contractually repaired or replaced elsewhere, Seller's only obligation is to replace Products that are proved defective within one (1) year after date of delivery, but always provided the Product receives normal and proper use, and due care in handling is exercised. If the Products purchased show defects in material or workmanship within one (1) year after date of delivery, Buyer must discontinue use thereof and must promptly notify Seller, so that the matter may be investigated and Product inspected and examined by the Seller without interference or delay.
7. Under no circumstances or conditions shall Seller be liable or responsible for any claim of any Buyer for costs, expenses, direct or consequential damages beyond the price of the products purchased and not charge for labor or other expenses required to repair or to replace defective products or occasioned by the same will be allowed if products are defective and notice given as herein provided. The measure of damages as aforesaid shall be limited to the price of the defective products. Products replaced by Seller pursuant hereto shall become the property of Seller and at Seller's request such products shall be returned to Seller F.O.B. destination as determined by Seller.
8. Materials not of Seller's manufacture are warranted only to the original manufacturer. Buyer acknowledges that the Seller makes no other representations or warranties. Claims for shortages or erroneous charges must be made within ten (10) days after receipt of Products by Buyer. Absence of such notice constitutes waiver by the Buyer on all claims for shortages or charges. Buyer shall give the Seller prompt oral and confirmed written notice of Products, which Buyer considers to be defective in workmanship or material. Seller shall then instruct the Buyer concerning the repair or return thereof and the issuance of appropriate credits. Defective material may not be returned until inspected by Seller at Buyer's facility, and only when specific written instructions are given by the Seller. Granting the Buyer the "Authority" to return Products will not be construed to signify the acceptance of the Products themselves or the Buyer's claims, but will only signify "Authority" to physically return the Products so that they may be re-inspected and so that proper disposition of the Buyer claim may be made after such inspection. Seller reserves the right to return the Products to a Buyer, after such inspection with no credits to the Buyer, and with the Buyer to bear all handling and transportation charges. Authorization to a Buyer to return Products requires the use of the least expensive mode of transportation available unless otherwise specifically indicated on the Return Products Authorization. The maximum time period between the original shipment of the Products and the request for "Authority" to return Products by the Buyer shall in no case exceed ten (10) days. No replacement order will be processed until final disposition has been made for the returned Products by the Seller's Quality Assurance Department. No credit will be given or accounting entry made until such final Quality Assurance disposition has been made by Seller.

Seller requires from Buyer manufacturing instructions complete to Seller's satisfaction before shipping promises can be made. Order or contracts are accepted subject to Seller's ability to obtain necessary raw materials, to Seller's mill schedules, production limitations and in addition, but not limited thereto, Acts of God, or of belligerent powers, wars, sabotage, explosions, riot, civil commotion, military or naval arrests or restraints, governmental interference, regulations, restrictions, or embargoes, strikes, lockouts, differences with workmen, fire, floods, lightning, tornado or wind, shortage of labor, fuel, power, material or supplies, insufficient transportation facilities, or delays in transportation of products or supplies necessary for its production or treatment or accidents to plant or machinery at mines or plants where produced or other contingencies beyond Seller's control whether similar or not similar to those specifically named, shall be a complete excuse for any delay traceable thereto and any contract entered into shall be deemed suspended so long as it causes or prevents or delays execution thereof. Seller agrees to ship and Buyer agrees to accept deliveries in the regular course such causes have been removed.

Seller reserves a security interest in all Products and proceeds thereof to secure payment of Buyer's obligations. Such security interest is retained until Buyer's indebtedness is paid in full. Buyer consents to the filing by Seller of this Agreement or financing statements pursuant to the Uniform Commercial Code or other applicable law to evidence or perfect Seller's security interest in the Products. Buyer hereby authorizes Seller to make any such filing without Buyer's signature at Seller's request. Buyer shall join with Seller in executing to financing statements or other documents as may be necessary to accomplish the foregoing until payment in full for the Products is made. Seller shall, at any reasonable time and without notice or demand and with legal process be entitled to take possession of the Products. Buyer hereby authorizes Seller, its agent or employees to enter the premises where the Products are stored and to remove such Products in the event that Buyer fails to make a payment required by this Agreement.

9. Any controversy or claim arising out of or relating to this Agreement or a breach thereof, whether such claims are based on federal or state law and whether they are grounded in common law or statutory law, shall be settled exclusively by arbitration in New York City, New York in accordance with the rules of the American Arbitration Association and judgment upon the award rendered by the arbitrator(s) shall apply New York law in determining the rights, obligations and liabilities of the parties. The arbitrator(s) shall not have the power to alter, modify, amend, add to, or subtract from any term or revision of this Agreement, not to rule upon or grant any extension, renewal or continuance of this Agreement, nor to award damages or other remedies expressly prohibited by this Amendment.

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In all other respects, the rules of the American Arbitration Association shall govern the arbitration. The failure or refusal of either party to submit to arbitration in New York City, New York shall be deemed a breach of this Agreement, if either party seeks and secures judicial intervention requiring enforcement of this arbitration provision, such party shall be entitled to recover from the other party all costs and expenses including reasonable attorneys' fees that it was thereby required to incur.

If as a matter of law the arbitration provision is not enforceable as to a particular claim brought by one party against the other then that claim shall be instituted solely in a state or federal court situated in the State of New York, County of New York. For this purpose both Seller and Buyer hereby irrevocably consent to the personal jurisdiction of the federal and state courts located in the State of New York and waive any defense based upon improper venue, inconvenient venue or lack of personal jurisdiction.

10. The Seller reserves at any time the right to alter or suspend credit and/or to change credit terms provided herein when, in its sole opinion, the financial condition of the Buyer warrants it. In such case, in addition to any other remedies herein, or by law provided cash payments, or satisfactory security from the Buyer, may be required by the Seller before shipment, or the Seller in its sole discretion may accelerate the due date of payment by the Buyer, under any contract or other agreement with the Seller. Seller reserves the right to possession of Products and the right to stop Products in transit and to demand payment before delivery. Failure to pay invoices at maturity date makes all subsequent invoices immediately due and payable irrespective of terms and the Seller may withhold all subsequent deliveries. The receipt by the Seller of any part less than the full amount shall not be a waiver of any rights of the Seller. Seller may decline to make a delivery on any order except for cash and shall so advise the Buyer. Seller shall in such event make delivery on any order or against payment of cash on delivery at Seller's factory or in advance of delivery whichever Seller may specify or Seller may at its option cancel the order or contract. If Seller shall institute any action for the enforcement of Buyer's obligations to Seller, there shall be immediately due from Buyer all cost and expenses of such action including but not limited to reasonable attorneys' fees.
11. Seller reserves the right to deliver from any of its warehouses or plants. Delivery to point stated shall constitute delivery to Buyer or his agent, thereupon title shall pass to Buyer, and all risk of loss or damage shall be borne by Buyer. If strike, embargo or any other cause beyond Seller's control prevents delivery to point stated, title shall pass as soon as the Products have been set aside and earmarked for the Buyer by the Seller in such event payment shall be made in accordance with Seller's invoice as though the Products had been delivered.

Delivery or tender within 10% of the overage of shortage against total quantity shall constitute good and complete performance and be so accepted by Buyer. Delivery within 30 days of the time specified shall be deemed timely delivery. Thereafter shipment within three days after receipt by Seller of written notice of cancellation from Buyer shall continue timely delivery.

Seller reserves the right to make partial deliveries under this contract and each partial shipment shall be paid for separately as per invoice for same. Should Buyer fail to pay for such partial shipment in accordance with invoice rendered, Seller at its option and without prejudice to any other lawful remedies may consider such failure a breach of the entire contract. The Seller's failure to delivery any installments due or a defect in any delivery constitutes a severable breach only and Buyer cannot treat the entire contract as breached.
12. Any liability of Seller for non-delivery of the whole or any part of merchandise under this contract shall be limited to the difference between the contract price of merchandise and the price the same or for a reasonably suitable substitute therefore in the open market at the time said merchandise should have been delivered hereunder, but whether or not such merchandise is available in the open market in no event shall Seller's liability exceed an amount equal to ten percent (10%) of the contract price for the merchandise not delivered.
13. The Seller's prices do not include sales, use, excise, or similar taxes, accordingly in addition to the price specified herein, the amount of any present or future sales, use, excise, or other similar tax applicable to the sales of Products shall be paid by the Buyer. In lieu thereof, the Buyer shall provide the Seller with all applicable tax exemption certificates.
14. All dies, tools, etc. remain the exclusive property of Seller regardless of any charge made to cover labor and expenses involved in making or altering such dies, tools, etc.
15. Interest on all past due accounts will be charged at one and one-half percent (1 ½) per month on all amounts sixty (60) days past due.
16. Products are not returnable without written consent of the Seller, as stated previously herein. When returnable reels are returned in condition acceptable to Seller, credit will be issued with a period of four (4) months from date of Seller's acceptance. Credit will be issued at the prices charged. Under no condition, will credit be allowed on reels returned four (4) months from date of delivery from Seller to Buyer.

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17. There shall be no waiver, alteration, modification or change of any provisions or terms and conditions indicated above, except in writing signed by a duly authorized officer of the Seller.
18. Buyer shall neither assign any rights nor delegate any duties under this Agreement nor any monies due hereunder without the prior written consent of Seller, which may be withheld for any reason or for no reason.
19. All notices and communications from Buyer regarding any transaction between Seller and Buyer must be addressed to the Seller at 900 Holt Avenue, East Industrial Park, Manchester, New Hampshire 03109.

All notices and communications from Seller to Buyer regarding any transaction between Seller and Buyer shall be addressed to Buyer at return address of order, unless Buyer notifies Seller otherwise. Seller reserves the right to correct stenographic and other errors.

Any action of any kind against Seller by Buyer must be commenced within one year from the day of such right claim, demand or cause of action shall accrue.

20. If any portion of this Agreement shall be or become legally void or unenforceable for any reason whatsoever by a court of competent jurisdiction, such invalidity and unenforceability shall not impair the validity or enforceability of the other provisions hereof.