
STANDARD TERMS AND CONDITIONS OF SALE

These terms and conditions of sale (“Agreement”) are applicable to any order placed with and accepted by Elettrotek Kabel North America, Inc. (referred to herein as “EKNA”):

- SCOPE OF AGREEMENT:** EKNA, upon acceptance of an Order placed by Buyer, will supply the products specified in the Order (the “Product”) to Buyer, pursuant to the terms and conditions of this Agreement and its exhibits and EKNA’s acceptance of such order submitted by Buyer is expressly limited to the terms and conditions of this Agreement notwithstanding any contrary provision contained in Buyer’s purchase orders, invoices, acknowledgements or other documents. The details of the Product (e.g. quantity, price, and product specifications) shall be set forth in the relevant Order. Orders once accepted are non-cancellable and non-refundable.
- PRICE AND TERMS:** (a) The prices payable by Buyer for Product to be supplied by EKNA under this Agreement will be specified in the applicable Order. Unless otherwise expressly stated in an Order, all prices exclude shipping and taxes; (b) unless otherwise stated, all Orders are subject to a standard manufacturing tolerance of +/- 10% of quantity stated on Order (c) payment terms are net thirty (30) calendar days from the date of the invoice. If Buyer does not pay the invoiced amount within terms, Buyer will incur and pay additional finance charges of one and one-half percent (1.5%) per month on the late balance. EKNA reserves the right to (1) withhold shipment of the Product until full payment is made; and/or (2) revoke any credit extended to Buyer. In the event that Buyer’s account is more than ninety (90) days overdue, Buyer shall reimburse EKNA for the reasonable costs, including attorney’s fees, for collecting such amounts from Buyer; (d) upon reasonable request by EKNA, Buyer shall provide copies of its most recent audited financial statements or other reasonable evidence of its financial capacity and such other information as EKNA reasonably requests to determine credit status or credit limits; and (e) Buyer shall provide notice within five (5) business days of the occurrence of any event which materially affects Buyer’s ability to perform its obligations under this Agreement. All applicable sales tax and similar taxes shall be the responsibility of Buyer.
- DELIVERY:** Buyer shall bear the cost of all shipments, and shall be liable for all incidental costs incurred by EKNA, if Buyer causes any delay or fails to accept Products upon delivery. Unless otherwise agreed upon, EKNA will ship the Product immediately upon Product being ready; in the event that Buyer cannot accept Product when ready, then EKNA reserves the right to impose added charges in order to accommodate for storage, transportation and all other allocation costs. In the event Buyer directs EKNA to deliver Products using a specified courier, then Buyer shall bear the risk of loss or damage to the Product upon EKNA releasing the goods to the courier.
- INDEMNIFICATION:** The indemnifying party, as Indemnitor, shall indemnify, defend and hold harmless the indemnified party, as Indemnitee, its officers, directors, employees, agents, subsidiaries, and other affiliates from and against any and all claims, damages, liabilities, and expenses (including attorney fees) arising from any third-party claim based on Indemnitor’s (or its agent’s) breach of any representation, warranty, covenant, agreement, or obligation under the Order or this Agreement , or Indemnitor’s (or its agent’s) grossly negligent and/or willful acts in carrying out its obligations under the Order or the Agreement, provided that in no event shall EKNA be responsible for any claims arising out of its compliance with instructions, requirements, or specifications provided by or required by Buyer. Neither party will be responsible for indemnifying another party hereto where the basis of the indemnity claim arises out of such other party’s own negligence or willful misconduct. In order to avail itself of this indemnity provision, Indemnitee shall promptly provide notice to Indemnitor of any such claim, tender the defense of the claim to Indemnitor, and cooperate with Indemnitor in the defense of the claim. Indemnitor shall not be liable for any cost, expense, or compromise incurred or made by Indemnitee in any legal action without the Indemnitor’s prior written consent.



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5. **BREACH**: In addition to all other rights to which a party is entitled under this Agreement, if either party breaches any term of the Order or this Agreement, the non-breaching party shall have the right to: (a) terminate the Order immediately upon written notice to the other party; and (b) seek to obtain injunctive relief to prevent such breach or to otherwise enforce the terms of this Agreement. Failure to properly demand compliance or performance of any term of the Order or this Agreement shall not constitute a waiver of EKNA's rights hereunder and prior to any claim for damages being made for non-conformance or breach, Buyer shall provide EKNA with reasonable notice of any alleged deficiencies in the Product or performance under the Order or this Agreement and EKNA shall have a reasonable opportunity to remedy any such alleged non-conformance or breach.
 6. **WARRANTY AND LIMITATION OF LIABILITY**: EKNA warrants good title to the products and that products shall be free from material defects. In no event shall EKNA be liable here under for incidental, special, indirect, consequential, or punitive damages even if advised in advance of the possibility for such damages and supplier's total liability for damages under this agreement.
 7. **NOTICE**: Any notice sent pursuant to the Order, or this Agreement shall be sent by certified mail, return receipt requested, or by overnight mail to the addresses on the Order or to such address as either party may in the future designate. Notices shall be effective upon receipt.
 8. **COMPLIANCE WITH LAW**: Each party shall comply with all state, federal and local laws and regulations applicable to its performance hereunder.
 9. **GOVERNING LAW**: The Order and this Agreement shall be governed by the laws of the State of New Jersey, without reference to conflicts of law principles. Any legal suit, action or proceeding arising out of or relating to the Order or these this Agreement shall be commenced in a federal or state court in the State of New Jersey, and the appellate courts thereof, and each party hereto irrevocably submits to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. With respect to any litigation arising out of the Order or this Agreement, the parties expressly waive any right they may have to a jury trial and agree that any such litigation shall be tried by a judge without a jury and the prevailing party shall be entitled to recover its expenses, including reasonable attorney's fees, from the other party
 10. **FORCE MAJEURE**: EKNA shall not be liable for any failure to perform or delay in performance of this Agreement to the extent that any such failure arises from acts of God, war, civil insurrection or disruption, riots, government act or regulation, strikes, lockouts, labor disruption, cyber or hostile attacks, inability to obtain raw or finished materials, inability to secure transport, or any cause beyond EKNA's commercially reasonable control.
 11. **ENTIRE AGREEMENT**: The Order, this Agreement and the operative provisions of any quotation issued by EKNA and any purchase order issued by Buyer, sets forth the entire agreement and understanding among the parties as to the subject matter hereof, and merges and supersedes all prior discussions, agreements, and understandings of every and any nature among them.