



Elektrometal Energetyka SA

General Terms and Conditions of Sale
of
Elektrometal Energetyka SA (ver. 12/20)

§ 1. General Provisions

1. These General Terms and Conditions of Sale shall specify rights and obligations of Parties to trade agreements in which Elektrometal Energetyka SA is the Contractor.
2. The following terms and expressions as used in the General Terms and Conditions of Sale shall have the following meaning:
 - 1) **Elektrometal Energetyka S.A.** – a joint-stock company entered in the Register of Entrepreneurs maintained by the District Court for the Capital City of Warsaw in Warsaw, 13th Commercial Division under the National Court Register (KRS) number 0000479639, Tax Identification Number (NIP): 951-23-27-169, Statistical Business Registry Number (REGON) 146888618 with its share capital of PLN 1,700,000.00, fully paid up;
 - 2) **the Contractor** – Elektrometal Energetyka S.A.;
 - 3) **the Customer** – any entity being the other party of the trade agreement with Elektrometal Energetyka S.A., also referred to as **the Counterparty**, in which any person authorized to act for the Customer shall be empowered to enter into the trade agreement, including the receipt of the ordered products. In the event any person authorized to act for the Customer has already entered into any trade agreement with the Contractor, this person shall be understood to hold powers to enter into subsequent trade agreements, also under another order, unless the Contractor is notified in writing on the revocation of the power of attorney for the person;
 - 4) **Parties** – the Contractor and the Customer together;
 - 5) **commercial offer** – a written instruction of the Contractor, including placed via the Contractor's online order app, constituting a statement of will of the Contractor as to their readiness to enter into the trade agreement with the Customer;
 - 6) **the GTCs** – these General Terms and Conditions of Sale of Elektrometal Energetyka S.A.;
 - 7) **the trade agreement** – an agreement entered into by and between the Parties as a result of the Customer's order placement and the written confirmation of the acceptance of the Contractor's commercial offer without any reservations, modifications or additions. Any reservations, modifications or additions provided by the Customer shall not be included in the trade agreement, even though they might not be contested by the Contractor;
 - 8) **the order** - a written instruction of the Customer, including placed as the Contractor's order form available at <http://www.elektrometal-energetyka.pl> and at the registered office of the Contractor or via the online order app of the Contractor, constituting a statement of will of the Customer as to their readiness to enter into the trade agreement with the Contractor;
 - 9) **products** – commercial products sold by Elektrometal Energetyka S.A. For the purpose of these GTCs, products shall be understood to also include the Contractor's services the sale of which shall be covered by the General Terms and Conditions of Sale of Elektrometal Energetyka S.A.;
 - 10) **the ADR classification** – the classification of dangerous products according to the Agreement on the International Carriage of Dangerous Products by Road of 30.09.1957 made in Geneva and published in the



Elektrometal Energetyka SA

Governmental Notice of 28.05.2013 on the enactment of amendments to Annexes A and B of the European Agreement concerning the International Carriage of Dangerous Products by Road (ADR) made in Geneva on 30.09.1957;

- 11) **Force Majeure** – means and includes all circumstances or events beyond reasonable control of Elektrometal Energetyka S.A., regardless of whether they were foreseeable upon entering into a relevant trade agreement or not, due to which it is impossible to raise any justified claims towards Elektrometal Energetyka S.A. for the performance of contractual obligations. Detailed provisions regarding the Force Majeure are included in § 12 of these GTCs.
3. Words or expressions used herein in a singular form or any particular gender shall apply to the plural form and any other gender if the context of these GTCs so requires.
4. Subject to Section 5 below, these GTCs shall constitute complete and exclusive contractual terms binding the Parties with regard to the sale of products by Elektrometal Energetyka S.A. Hence, the Parties shall exclude the application of any other contractual terms and conditions. Any other provisions applied by the Customer shall not be binding upon the Parties.
5. These GTCs shall constitute an integral part of all trade agreements concluded with Elektrometal Energetyka S.A., whereby in the event the Parties have agreed upon their rights and obligations in a separate, written agreement, provisions of such an agreement shall prevail and provisions of these GTCs shall apply only to matters not governed by the trade agreement so concluded.
6. The Customer shall be required to familiarize themselves with provisions hereof prior to the final agreement upon all material elements of the respective trade agreement and upon its conclusion at the latest. These

GTCs shall be available at <http://www.elektrometal-energetyka.pl> and at the registered office of Elektrometal Energetyka S.A.

7. Where the Customer maintains continued trade relations with Elektrometal Energetyka S.A., the acceptance of these GTCs by the Customer with one trade agreement shall mean the acceptance of these GTCs application with all the other trade agreements between the Parties unless an express, written objection is raised.
8. The application of general terms and conditions of agreements or agreement templates of the Customer shall be excluded also when the Contractor has raised no reservations as to their exclusion, amendment or an express objection subject to the Contractor's written consent in a relevant scope for the incorporation of general terms and conditions of the Customer's agreements or agreement templates into the trade agreement. Approval of the Customer's order by the Contractor or the performance of the Customer's order by the Contractor under no circumstances shall mean the Contractor's acceptance of any general terms and conditions of the Customer's agreements or agreement templates. The Contractor's employees shall not be empowered to incorporate any general terms or conditions of the Customer's agreements or agreement templates into the trade agreement, even partially, unless their power of attorney contains express provisions to the contrary.
9. For the purposes of these GTCs any statement of will made by any Party in a document form or an electronic form shall be equal to the statement of will made by the Party in writing.

§ 2. Prices

1. Information, advertisements and other notifications regarding products on offer by



Elektrometal Energetyka SA

Elektrometal Energetyka S.A. are only of informative nature and do not constitute any offer within the meaning of the Civil Code provisions.

2. Prices specified in the price lists or other cost-related documents sent to counterparties or received by counterparties in any other way are bidding until a new price list or a cost-related document is issued. VAT shall be added to all prices specified in price lists and other cost-related documents. If prices are shown in a foreign currency, the Customer shall be required to pay the equivalent thereof in Polish zlotys calculated in accordance with the average exchange rate for a relevant currency of Bank PeKaO S.A. as of the invoice date.
3. The Contractor reserves the right to change the prices of products on offer by Elektrometal Energetyka S.A., and in particular in relation to any change in the currency exchange rate, payrolls, prices of materials, energy crises, changes in legal regulations and others which are beyond the control of Elektrometal Energetyka S.A..
4. Elektrometal Energetyka S.A. shall have the right to change any elements related or regarding the trade assortment of the Contractor without having to notify the Customer to this effect, whereby any such change shall not affect trade agreements concluded prior to the change taking place.
5. In the event any circumstances justifying an increase of prices of the ordered products occur after the conclusion of a relevant trade agreement such as, e.g. increase of customs fees, introduction of additional customs charges, introduction of other public and private levies, the Contractor shall have the right to adjust the prices of the products as appropriate having first notified the Customer and indicated the grounds for the increase. The increase shall not be higher than the actual increase of cost elements. Additionally, the Contractor shall have the right to change the structure or technical

parameters of elements included in the order having first notified the Customer provided that such changes do not affect the functionality or fitness for a specified purpose of the products covered by the relevant trade agreement.

6. The Contractor shall be entitled to exercise the right specified in section 5 above also in the event of any increase of production costs or the costs of purchase of given products in relation to the prices as of the day of the trade agreement conclusion.

§ 3. Order Placement

1. The conclusion of the trade agreement shall be contingent upon the order placement by the Customer and the Customer's confirmation of the acceptance of the Contractor's trade offer. The order execution date and other terms of the trade agreement shall be set forth in the accepted trade offer of the Contractor. Should the Counterparty raise any reservations, propose amendments or additions to the accepted trade offer of the Contractor, the trade agreement shall be concluded exclusively upon the written acceptance of such reservations, amendments or additions by the Contractor. Any change or addition of any of the offer's terms shall be deemed as a new offer.
2. The Parties shall exclude any possibilities of silent (implied) conclusion of a trade offer provided for by the law.
3. The Parties shall be bound to cooperate during the performance of the agreement. The Customer shall be required to provide the Contractor with any information necessary to design and manufacture the products. The Customer shall be liable for the effects of provision of incorrect or incomplete technical data in the order or data regarding the execution of the order.
4. If, in the course of the trade agreement's performance, there is a need to carry out works not included in the scope thereof, but

- necessary for the commissioning of the agreement's subject matter in accordance with its purpose, the Contractor shall carry out such works upon a separate written order of the Customer in which the scope of works shall be specified. The amount of compensation and the performance date shall be specified by the Contractor in cooperation with the Customer.
5. Any and all oral arrangements, assurances, promises and guarantees made by the Contractor or persons acting for and on behalf of the Contractor in relation to the conclusion of the trade agreement shall not be binding.
 6. Subject to orders placed via the online order app of the Contractor, the Customer shall be required to attach the following documents and information to the order:
 - 1) for legal persons – the current extract from the Companies Register, a Tax Identification Number (NIP) and Statistical Business Registry Number (REGON) certificates;
 - 2) for private partnerships – current information from the Central Registration and Information on Business Register (CEiDG) for each shareholder of the private partnership, a Tax Identification Number (NIP) and Statistical Business Registry Number (REGON) certificates;
 - 3) for self-employed individuals - current information from the Central Registration and Information on Business Register (CEiDG), a Tax Identification Number (NIP) and Statistical Business Registry Number (REGON) certificates;
 7. Elektrometal Energetyka S.A. shall accept orders on weekdays from Monday to Friday between 8:00 am and 2:00 pm. Any orders placed after 12:00 pm shall be deemed as placed on the following business day.
 8. Resignation from or amendments to the order by the Customer may be effected exclusively on the day of its placement until 12:00 pm, and in case of an order placed after 12:00 until 8:00 am on the following day.
 9. The Counterparty shall authorize the Contractor to carry out the negative payment check regarding the Counterparty prior to the acceptance of the order for execution. If the check reveals the occurrence of any legal or factual events on the part of the Counterparty which pose risks to the payment of the Contractor's compensation, the Counterparty shall be required to establish an additional collateral for the payment of the Contractor's compensation in the form of a blank promissory note or any other collateral recognized by the Contractor.
 10. In the event the Customer has any unsatisfied liabilities towards the Contractor, the Contractor shall be entitled to reject the order placed by the Customer until such liabilities are settled.
 11. Elektrometal Energetyka S.A. reserves the right to have, at any time, third parties carry out orders under the consortium agreements, which the Customer consents to. The consortium member's joining the execution of the order shall not affect the validity of the trade agreement concluded between the Parties or the provisions of these GTCs. Provisions of these GTCs shall apply to the consortium member accordingly.
 12. Technical support activities which might accompany the sale of Elektrometal Energetyka S.A.'s products shall be discretionary on the part of the Contractor and their sole purpose is to present the characteristics of the products and the possibilities of their applications. Such activities can be discontinued at any time with no claims on the part of the Counterparty. Any suggestions, recommendations, solutions and instructions provided in any form by the



Contractor shall constitute only general guidelines for the optimal usage of the Contractor's products.

§ 4. Release of the Products. Collection of the Products

1. The products which are the subject matter of the relevant trade agreement shall be released exclusively to the Customer.
2. Unless the Parties agreed upon in writing to the contrary, the products shall be collected by the Customer with the use of their own transportation. Elektrometal Energetyka S.A. shall not bear any costs of transportation of the products sold. Once the products are collected, the Customer bears the risk related to the accidental damage or loss of the products. In case the transport is commissioned to a transport company, the Contractor shall not be liable for any defects or damages which might occur in transit.
3. When collecting the products the Customer shall be required to inspect the correctness and completeness of the products and the correctness of their loading, collect the set of transport-related documents and be familiar with regulations governing the transport of products covered by the ADR classification.
4. If the delivery of products to the Customer is at the expense and risk of the Contractor, the Customer shall be required to report any visible defects and damages of the products delivered and/or any missing quantities in writing in an acceptance protocol under the pain of forfeiting the right to claim defects, damages or missing quantities. In this case the Customer shall be required to send the original waybill accompanied by the acceptance protocol stating the existence of any defect or missing quantities signed by the carrier who confirms the fact of the damage occurring in transport.
5. If the costs of the products' delivery are borne by the Contractor, the acceptance and

unloading costs shall be charged to the Customer.

6. The entire risk related to the products from the moment of their release shall be borne by the Customer.
7. The acceptance protocol shall be made by the Parties in relation to the collection of products and it shall be the basis for the Contractor to issue the final VAT invoice.
8. Under the trade agreement the Contractor shall be required to deliver the subject matter thereof taking into consideration the legal status in relation to legal regulations commonly in effect as of the day of the trade agreement's conclusion.

§ 5. The Return. Delayed Collection

1. The products shall be returned at the expense and the liability of the Customer.
2. The return of the products shall be possible after obtaining a prior written consent of Elektrometal Energetyka S.A. and the deduction of handling fees specified by the Contractor.
3. Elektrometal Energetyka S.A. shall have the right to exercise the powers referred to in § 10 of these GTCs in relation to the Customer who has failed to make the timely collection of the products released for collection.

§ 6. Payment Terms

1. The settlement of the Customer's payable amounts shall be effected by VAT invoices issued after the products are manufactured (partial invoice) and after the products' collection by the Customer (final invoice).
2. The Customer shall be required to pay the price in instalments by dates specified in the trade agreement or in VAT invoices; and should no payment date be specified in that manner, then within 14 days from the VAT invoice's issuance.
3. Elektrometal Energetyka S.A. shall have the right to correlate the sale with the payment



of a specified amount of advance by the Customer towards the outstanding amounts for the products being purchased.

4. In specially justified cases when, between the conclusion of the trade agreement and the release of the products, Elektrometal Energetyka S.A. shall come, based on any sources, to reasonable doubts as to the Customer's ability to pay the full price of the products in a timely manner, Elektrometal Energetyka S.A. shall be entitled to correlate the manufacture of the products and their release with the payment of a specified part of payable amounts before the payment date specified in the partial invoice or the final invoice and even prior to the release of the products.
5. Under the trade agreement the Contractor shall issue VAT invoices on the day the manufacture of the products is completed (partial invoice) or on the day the products are collected (final invoice).
6. The day of the payment shall be the day the bank account of Elektrometal Energetyka S.A. is credited with the relevant amount.
7. Raising claims as to the quantity or quality of the products received shall not entitle the Customer to withhold the payment for the products and shall not release the Customer from the obligation to pay for the products.
8. The Customer shall not be entitled to assign any of their rights or obligations under the trade agreement without a prior, written consent of Elektrometal Energetyka S.A.
9. Unless the Parties agree upon otherwise in writing, the possibility of the Customer's deduction of their claims under the trade agreement from the claims of Elektrometal Energetyka S.A. and from any other mutual claims of the Parties, also under Article 498 of the Act – the Civil Code, shall be excluded.
10. The Contractor shall be entitled to deduct their due compensation from any claim of the Customer and the established collateral by making a written statement to this effect, to which the Customer shall hereby

authorize the Contractor, and the Contractor may also retain, without any separate statement to this effect, the specified amount from the collateral made or established by the Customer.

§ 7. Delayed Payments. Liability

1. In the event the Customer is in default of the payment of the price of products in whole or in part, the Contractor shall have the right to charge penalty interests accruing in the statutory amount on all delayed payments for the delay or in the amount of interests for delays in trade transaction depending on which of the amount is higher and in the scope provided for by effective legal regulations from the maturity day to the day the full payment is made. Additionally, the Contractor shall have the right to suspend the performance of all other trade agreements concluded with the Customer, including the release of the products until the Customer settles all outstanding amounts together with the accrued interests.
2. In the event of a delayed payment Elektrometal Energetyka S.A. shall be entitled to seek, in addition to the principal amount and penalty interests, the reimbursement of the court, enforcement, debt recovery and legal representation fees. Furthermore, Elektrometal Energetyka S.A. shall be entitled to seek the reimbursement of costs related to the recovery of the outstanding amounts up to the amount not exceeding 10% of the sum of the outstanding amounts being recovered.
3. If the Customer is in default of any payments payable under more than one invoice, Elektrometal Energetyka S.A. shall be entitled to count any payment made by the Customer under any invoice first towards the penalty interests for delays and then towards the oldest outstanding amounts payable. This provision shall repeal the Customer's



- rights referred to in Article 451 § 1 of the Act – the Civil Code. Simultaneously, Elektrometal Energetyka S.A. reserves the right to compensate against any other claims and liabilities.
- In the event the Customer is in default of the payment date for products delivered under merely one invoice, Elektrometal Energetyka S.A. shall be entitled to place the payments of all to date invoices issued for the Customer whose payment dates have not yet matured on demand and/or require immediate payment thereof.
 - If the Customer is in default of the payment for products delivered, Elektrometal Energetyka S.A. shall be entitled to make the bank transfer to an entity which professionally handles factoring of all claims owed to them by the Customer, which the Customer hereby consents to.
 - Apart from the provisions referred to in this Section, in the event of the Customer's delay in the payment of the partial or the whole price of the products, the Contractor shall be entitled, from the maturity day, without any call on the Customer, to the equivalent of the amount of EUR 100 converted to Polish zlotys in accordance with the average foreign currency exchange rate published by the National Bank of Poland on the last business day of the month preceding the month in which the payment became payable, as flat-rate reimbursement for the payment recovery costs, in accordance with regulations on payment dates in trade transactions. If the Parties have agreed that the payment shall be made in instalments, Elektrometal Energetyka S.A. shall be entitled to the flat-rate reimbursement for the payment recovery costs separately for each instalment.

§ 8. Warranty and Guarantee

- Elektrometal Energetyka S.A. shall be liable under the warranty exclusively on the terms specified in these GTCs. Any further liability under the warranty shall be excluded.
- In order to keep the warranty rights the Customer shall be required, promptly upon the collection of the products being the subject matter of the relevant trade agreement and not later than within 2 days from the day of the products collection, to inspect compliance of the products with the quantity and type specified in the trade agreement and the correct quality thereof.
- In the event any defects in the products which are the subject matter of the relevant trade agreement are found, the Customer shall be required to promptly notify Elektrometal Energetyka S.A. to this effect in writing, however not later than within 2 days from the day of the discovery, whereby the Customer shall be required to provide the Contractor with the access to the defective products as delivered upon each request of the Contractor. The Contractor shall not be required to disassemble or reassemble the products and shall not be liable for any related or associated costs.
- Any possible late complaints shall not be considered. In order to keep the claim filing deadline, it is necessary to notify Elektrometal Energetyka S.A., also by registered mail, before the date specified in item 3 above.
- After the Elektrometal Energetyka S.A.'s inspection of the defective product, a complaint protocol shall be drawn up in which Elektrometal Energetyka S.A. shall include their comments, and in particular information whether the complaint is recognized and if yes, to what extent. The Customer shall be entitled to sign the complaint protocol adding their possible comments as to the legitimacy of the stand taken by Elektrometal Energetyka S.A. in the matter.
- In the event the complaint is found justified, Elektrometal Energetyka S.A. shall, at their own discretion:



- 1) lower the price as per the value of the defect found if the delivered product is fit for use in spite of the existing defect;
- 2) replace the defective product with the product free of defects at the cost and the risk of Elektrometal Energetyka S.A.
7. Subject to item 8 below, the Customer may not, without the consent of Elektrometal Energetyka S.A., undertake any actions intended to repair the defect or the damage.
8. The Customer shall be required to undertake all possible endeavours to minimize possible damages related to the use of the defective product. Failing to do so in case of a damage which could have been mitigated had the Customer undertaken specific measures shall result in Elektrometal Energetyka S.A. not being liable for the damage.
9. Elektrometal Energetyka S.A. shall not be liable for defects or damages of products caused by the Customer's non-compliance with Elektrometal Energetyka S.A.'s guidelines regarding the storage, intended use or shelf life of the purchased products.
10. Elektrometal Energetyka S.A. shall not be liable if the Customer grants their customer further rights under the warranty or guarantee.
11. The warranty shall be granted to the Customer provided that the Customer complies with all terms as specified in items 1-10 above and the Customer's timely performance of all obligations under the trade agreement, including the obligation to pay for the product.
12. Elektrometal Energetyka S.A., regardless of the rights related to the warranty, may grant the Customer a guarantee for the purchased products. Terms of any possible guarantee shall stem from a separate statement made by Elektrometal Energetyka S.A. exclusively in writing. The possibility to seek claims under the guarantee shall expire if the Customer, without any arrangement with Elektrometal Energetyka S.A., tampers with the product, in particular by: repair, faulty

assembly/installation, modifications, fitting, incorrect operation or any other physical tampering with the product without any knowledge and written consent of Elektrometal Energetyka S.A.

13. Under the guarantee the Contractor shall be required only to remove, at their own expense and discretion, physical defects of the product or deliver the product free of defects if the defects are found under the guarantee and are caused by reasons within the product or are the result of the faulty design or the use of defective materials.

§ 9. Additional Reservations

1. Creation of any pledges or other encumbrances on the products purchased by the Customer before the products are released to the Customer shall not be permitted.
2. Elektrometal Energetyka S.A. stipulates that the ownership title to the products being sold shall be assigned onto the Customer only upon the payment of the full price of the product to the Contractor. In the event the products are combined or mixed the Parties shall become co-owners of the entirety of the products. The application of Article 193 § 2 and Article 590 of the Act – the Civil Code shall be excluded.
3. Due to the fact that upon the release of the products to the Customer all burdens related to the products shall be transferred onto the Customer as well as the risk of an accidental loss or damage, Elektrometal Energetyka S.A. recommends that the Customer should insure the products against fire, damage, theft and any other risks as the Customer might deem fit.
4. In the event the Customer is in default of the payment under any of the trade agreements binding the Parties, the Contractor shall have the right to suspend the performance of all trade agreements concluded, including the release of the products until the Customer



settles all payable amounts together with penalty interests.

5. In the event the Customer's financial standing deteriorates, the Contractor shall be entitled to exercise the right specified in item 4 above unless the Customer creates an additional collateral for the Contractor accepted by the Contractor. The evaluation of the Customer's financial standing and the acceptance or rejection of additional collaterals shall be at the Contractor's exclusive discretion.
6. Apart from the guarantee document issued by the Contractor, all attestations, approvals, certificates of compliance or other documents pointing to the quality of the product, its technical parameters and characteristics provided by the Contractor together with the product shall not constitute the Contractor's confirmation of data contained therein and therefore, they shall not constitute any assurance that the product meets the criteria indicated therein. Documents provided shall constitute mere information of the Contractor that the product was manufactured in accordance with the criteria provided in the document pursuant to the manufacturer's statement.
7. If the documentation specifying the instruction of use for the delivered product, and in particular the Operation and Maintenance Manual, requires the execution of preventative service checks during the guarantee period and the trade agreement does not provide for otherwise, the Customer shall be responsible for meeting these requirements.
8. Failure to exercise or delayed exercise by any Party of any right or remedy under the trade agreement shall not be construed as a waiver of such rights, and one time or partial exercise of any right under these documents shall not prevent other or future exercise thereof and the exercise of any other rights under the trade agreement.

§ 10. Withdrawal from the Order Execution. Liability

1. As long as the product being the subject matter of the trade agreement is not collected by the Customer, the Contractor, having granted the Customer additional, at least 7-day long, period for the collection of the product, may withdraw from the trade agreement in the part relating to the sale of the unclaimed product or charge a contractual penalty in accordance with item 2 below.
2. In the event of the Customer's failure to collect the product, Elektrometal Energetyka S.A. shall be entitled to seek the contractual penalty in the amount of 0.1% of the net value of the unclaimed product for each day from the 7th day of the delay onward from the Customer. The payment of the contractual penalty shall not release the Customer from the obligation to collect the product. In the event the Contractor withholds the release of the product to the Customer due to the occurrence of prerequisites referred to in § 9, item 4 and 5 of these GTCs, the Customer shall be deemed in default of the collection and contractual penalty shall accrue on terms specified in preceding sentences.
3. In the event Elektrometal Energetyka S.A. withdraws from the trade agreement for reasons referred to in item 1, Elektrometal Energetyka S.A. shall be entitled to seek the payment of the contractual penalty from the Customer in the amount of 20% of the net value of unclaimed product, the failure to collect which resulted in Elektrometal Energetyka S.A. withdrawing from the trade agreement.
4. In the event the damages exceed the reserved contractual penalties the Contractor shall have the right to seek compensation in line with general principles.
5. Contractual penalties referred to in items 2 and 3 above shall be paid by the Customer to



the bank account indicated by the Contractor within 14 days from the delivery of the contractual penalty final demand letter.

6. In the event the Customer is in default of the payment of the contractual penalty, the Contractor may deduct the amount owed as contractual penalty from any of the Customer's amounts payable, including the collateral, to which the Contractor shall be hereby authorized by these GTCs and the Contractor may hold back the amount equal to the contractual penalty accrued from the collateral paid or created by the Customer without having to make any separate statement to this effect.
7. Elektrometal Energetyka S.A.'s liability towards the Customer in relation to damages caused to the Customer due to the failure to perform or the improper performance of the trade agreement shall be restricted in each case to the actual damage (fully excluding any indirect damages, including lost profits) and to the amount not exceeding the net price of the product covered by the trade agreement, whereby the Contractor may be liable only for the foreseeable and typical damages of the Customer.
8. Elektrometal Energetyka S.A. shall not be liable for the counterparty's achieving the intended results or economic effects of the use of Elektrometal Energetyka S.A.'s products.
9. Elektrometal Energetyka S.A. shall not be liable for the use of the products in any manner which infringes the third parties' intellectual or industrial property rights.

§ 11. The Products' Use

1. Information, and in particular guidelines regarding the operation and the end use of the products sold by Elektrometal Energetyka S.A. are provided in good faith taking into consideration the to date knowledge and experience of Elektrometal Energetyka S.A. and refer to the products

stored, maintained and used as intended in line with the guidelines provided by Elektrometal Energetyka S.A.

2. Due to the practical differentiation of materials, substances, conditions and methods of their use and location which is entirely beyond the control of Elektrometal Energetyka S.A., the properties of the products stated in information, written guidelines and other instructions provided by Elektrometal Energetyka S.A. cannot be relied upon as the basis for accepting liability by Elektrometal Energetyka S.A. in the event the products are used not in line with the guidelines provided by Elektrometal Energetyka S.A.
3. The Customer shall be required to use the product as intended and in line with the guidelines provided by Elektrometal Energetyka S.A.
4. The Contractor represents that the products are manufactured in accordance with Health and Safety and Environmental Regulations under the effective law and with the standards of the Contractor.

§ 12. Force Majeure

1. Elektrometal Energetyka S.A. shall not be liable for the non-performance or the delayed performance of the trade agreement if:
 - 1) the non-performance or the delayed performance is caused by the interruption of the product's manufacturing process;
 - 2) the non-performance or the delayed performance is caused by the force majeure event or provisions of the law commonly in effect.
2. In case of each of the non-performance or delayed performance instances, the execution of relevant parts of the trade agreement shall be suspended for the duration of the non-performance or delay without any obligations or liability on the part of Elektrometal Energetyka S.A. towards

- the Customer for any damages arising from the above-mentioned circumstances.
3. If the force majeure event persists for more than 3 consecutive months or if Elektrometal Energetyka S.A. reasonably assumes that the delay shall last for 3 consecutive months, Elektrometal Energetyka S.A. shall be entitled to either terminate the trade agreement in part or in whole or withdraw from individual orders without any liability towards the Customer.

§ 13. Confidentiality

1. The Customer confirms that all technical, trade and financial data disclosed to the Customer by the Contractor or their associated companies shall be treated as confidential information of Elektrometal Energetyka S.A. or their associated companies. The Customer shall not disclose any such confidential information to any third parties and shall not use it for any purpose other than the one agreed upon by the Parties in the trade agreement.
2. The Customer shall not be able to use the information from the trade offer of the Contractor in any way which could result in any damages to Elektrometal Energetyka S.A. or to their brand image.

§ Personal Data Protection Clause

1. For the purpose of the conclusion and the performance of the trade agreement the Parties shall disclose to each other personal data of which they are data controllers. Each Party, in their capacity as the personal data controller, shall be liable for the personal data processing, whereby the Contractor, while carrying out their GDPR privacy notice, states that with regard to the personal data disclosed, they shall process it for the purpose of:

- 1) the performance of the trade agreement (under Article 6, Section 1, letter b of the GDPR);
- 2) the legitimate interests pursued for the marketing of their own services (under Article 6, Section 1, letter f of the GDPR);
- 3) seeking or securing claims of the Contractor or protection against the claims of the counterparty (under Article 6, Section 1, letter f of the GDPR);
2. Personal data shall be stored for the duration of the performance of the trade agreement and the subsequent statute of limitations for claims arising from or in connection with the trade agreement.
3. Personal data shall not be subject to automated processing, and the data subject shall have the right to access the data, if any, to rectify it and to demand restriction of processing of the personal data subject to the events referred to in Article 18, Section 1 of the GDPR, as well as to lodge a complaint with the President of the Data Protection Office in case the Contractor violates the processing of personal data.
4. Elektrometal Energetyka S.A.'s privacy notice in all other aspects shall be carried out via the publicly accessible website <http://www.elektrometal-energetyka.pl>.

§ Copyrights

1. Elektrometal Energetyka S.A. shall retain all copyrights, patents and other industrial rights in relation to the products delivered by the Contractor, existing both, prior to the trade agreement and arising during the performance of the trade agreement. The Contractor grants the Customer the license for the rights refer to herein or assigns them to the Customer in the fields of exploitation and upon terms specified in the trade agreement of the Parties.
2. In the events referred to in item 1, the Customer shall be entitled each time to use



the products in the following fields of exploitations:

- 1) display, application, entering into and storing the products in the disc space subject to the fact that the product is installed each time at one computer work station. This field of exploitation shall not be construed as the grant of multi-work station license;
- 2) customize the product without the violation of the source codes and other terms specified in the trade agreement to the IT systems (hardware infrastructure) of the Customer;
- 3) making backup copies of the product if it is necessary to use the product and necessary for the archive purposes provided that the backup copy shall not be installed or used at any other computer work station and furthermore, the backup copy is designated with markings of the proprietary ownership of Elektrometal Energetyka S.A. and is not modified as to the copyrights. The Customer shall not be entitled to assign the rights to create backup copies onto any third parties;
- 4) furthermore, the Customer shall be entitled to store, replicate by any means and in any format, display and print the product documentation for their internal purposes;
5. Elektrometal Energetyka S.A. reserves the right to keep all rights to the product's source codes.
6. The license shall be granted for a fee and the amount of compensation for the license grant shall be included in the compensation specified in the trade agreement.

§ 16. Final Provisions

1. Provisions of these GTCs shall apply to all trade agreements concluded by Elektrometal Energetyka S.A. The Customer shall not be permitted to invoke the ignorance of these terms of these GTCs.
2. In the event any of these GTCs provisions are declared to be invalid or enforceable by any competent court or as a result of any future

legislative or administrative proceedings, this shall not affect the remaining provisions of these GTCs or fragments thereof and such an invalid or enforceable provision shall be replaced with a provision of a similar purpose reflecting the original intention in the scope permitted by relevant legal regulations.

3. Headings of individual sections of these GTCs are introduced only for the sake of convenience and shall have no legal bearing, which excludes the interpretation of these GTCs based on the headings.
4. The Customer shall be required to promptly notify Elektrometal Energetyka S.A. with regard to each change of the registered office or residence address and the service address. Failure to do so shall result in the service to the previously provided address being deemed as effective after 14 days from the date of postage.
5. Provisions of the Civil Code shall apply to all matters not governed by the trade agreement and these GTCs.
6. Any possible disputes arising from the performance of the trade agreement shall be settled by a common court with jurisdiction over the registered office of Elektrometal Energetyka S.A.
7. These General Terms and Conditions of Sale of Elektrometal Energetyka S.A. shall be effective as of 01.01.2021.