

**Elme Metall Lithuania  
Standard Terms and  
Conditions of Sale of Goods  
LT/2021, 01/11/2021**

The present Standard Terms and Conditions of Sale of Goods of Elme Metall Lithuania (hereinafter referred to as **“the EM”** or **“the Seller”**) (hereinafter referred to as **“the Standard Terms”**) shall be an integral part of the sale and purchase agreement (hereinafter referred to as **“the Agreement”**) and (or) offer (hereinafter referred to as **“the Offer”**) and shall define mutual rights and obligations between the Seller and the buyer. General provisions:

- 1.1. These Standard Terms shall be valid, unless EM and the buyer have agreed otherwise in the Agreement or any annexes thereto.
- 1.2. Unless otherwise specified in the Agreement, a reference to a specific clause, sub-clause or annex shall be construed as a reference to the relevant clause, sub-clause or annex of these Standard Terms.
- 1.3. In these Standard Terms, the names are used for ease of reference only and shall not be taken into account in defining, interpreting or limiting the provisions of these Standard Terms.
- 1.4. Where required by the context of the Agreement and (or) the Standard Terms, singular terms in the Standard Terms shall mean the plural and vice versa.
- 1.5. If any right under these Standard Terms or the law is unenforceable or is enforceable later, this shall not constitute a waiver of such or other right. The assignment, in whole or in part, of any right under these Standard Terms or the legal acts does not preclude a further assignment of the same or other rights.
- 1.6. The rights and obligations set forth in this Agreement, the Offer and the Standard Terms and Conditions are cumulative and do not supersede

any rights or obligations established by law or otherwise. If any provision of these Standard Terms is found to be invalid, illegal or unenforceable in whole or in part, the validity, legality or enforceability of the other terms and conditions of these Standard Terms shall not be affected. If one or more provisions of these Standard Terms invalid, illegal or unenforceable in whole or in part, this will in no way affect the validity, legality or enforceability of remaining provisions of the Agreement and (or) the Offer and (or) the Standard Terms.

- 1.7. Each clause of the Standard Terms and Conditions shall be interpreted in conjunction with other relevant clauses of the Standard Terms and (or) the Agreement and (or) the Offer, based on the meaning and purpose of the Standard Terms.

## **2. The Subject of the Agreement**

- 2.1. EM shall sell, and the buyer shall buy goods and services that the Seller offers for sale according to the specification approved by the buyer and the Seller and under the terms and conditions set out in the Agreement and (or) the Offer and these Standard Terms.

## **3. Sale of Goods under the Agreement or Offer and Transfer thereof to the Buyer**

- 3.1.1. The goods shall be sold to the buyer under the terms of the Agreement signed by the authorised representative of EM and the authorised representative of the buyer, except for the case specified in Clause 3.2 of the Standard Terms.
- 3.2. EM may sell and buyer may purchase products and services without entering into an Agreement based on a written Offer sent by Seller to buyer or in a form that can be reproduced in writing, subject to the following conditions:

- 3.2.1. The Offer submitted by EM to the buyer shall be binding on the parties under the terms and conditions specified in the Offer, when the Buyer confirms the Offer in writing in an unmodified form and (or) without annexes, or in a form that can be reproduced;
- 3.2.2. upon confirmation of the Offer, the buyer gives consent to the Seller concerning the goods under the purchase conditions specified in the submitted Offer;
- 3.2.3. in attempt to obtain an Offer, the buyer sends to the Seller an order specifying at least the following information:
  - name, specification and quantity of the purchased goods and services;
  - the terms and conditions of delivery of the purchased goods and services;
  - special conditions laid down by the buyer, including special conditions for the packaging and transport of the goods, if any;
- 3.2.4. these Standard Terms shall apply to the Offer if the Seller indicates them in its Offer or if EM and the buyer sign an Agreement;
- 3.2.5. the offer shall contain at least the following terms and conditions:
  - date of preparation and Offer number;
  - full name and status of the Offer; name, specification, quantity and price of the goods and (or) services sold under the Offer;
  - the term of validity of the Offer;
  - payment terms and conditions;
- terms and conditions of the delivery of the goods and (or) services sold under the Offer;
- other special conditions set by the Seller;
- 3.2.6. depending on the type of goods and (or) information provided by the buyer to the Seller prior to the preparation of the Offer, the data included in the Offer may differ from the information provided in Clauses 3.2.1-3.2.4 (inclusive) of the Standard Terms;
- 3.2.7. unless otherwise specified in the Offer, the Offer shall be valid for seven (7) days from the date of dispatch thereof to the Buyer. If EM does not receive the confirmation of the buyer within the specified period, the buyer shall be deemed to have rejected the offer, and neither the Seller nor the buyer shall be subject to any rights or obligations relating thereto;
- 3.2.8. EM has the right to refuse to submit an Offer irrespective of the reasons for such refusal;
- 3.2.9. if it is stated in the Offer that it is subject to these Standard Terms, the word "Agreement" in the Standard Terms shall be read as the word "Offer", and the provisions of the Standard Terms related to the Agreement shall apply to the Offer.
- 3.3. The sold goods shall be delivered to the buyer under *FCA "EM-specified warehouse" Incoterms 2010*, unless the parties have agreed otherwise in writing.
- 3.4. EM may offer transportation services to the buyer and deliver the goods to the place specified by the buyer in the following cases:
  - 3.4.1. if a single

- consignment of goods of over 20 (twenty) tons is delivered within the city, where the Seller's warehouse is located, by the Seller's own or ordered transport free of charge within the term agreed by the parties;
- 3.4.2. if a single consignment of goods of less than 20 (twenty) tons is delivered by the Seller's own or ordered transport for the price of transportation services agreed with the buyer in writing or in a form that can be reproduced in writing within the term agreed by the parties.
- 3.5. The parties may agree on different terms and conditions of delivery of the goods than the ones set out in the Clause 3.4 of the Standard Terms.
- 3.6. The delivery terms shall be valid and obligatory to the parties provided that the delivery of the goods specified in the Agreement or their availability in the Seller's warehouses is not hindered by the circumstances mentioned in Clauses 11.1-11.3 (inclusive) or acts or omissions of third parties, including authorities and officials. In the latter case, the deadline shall be extended for as many days as the Seller was unable to fulfil its obligations to the buyer due to the circumstances mentioned in Clauses 11.1-11.3 (inclusive) or due to acts or omissions of third parties.
- 3.7. The risk of unintentional loss or damage of the goods shall pass from the Seller to the buyer after the ownership of the goods is transferred in accordance with Clause 3.8.
- 3.8. The ownership right shall pass from the Seller to the buyer after full payment for the Goods is made, unless the parties have agreed otherwise in the Agreement.
- 3.9. The Seller shall hand over the goods to the authorised representative of the buyer specified in the relevant annex to the Agreement. At the request of the Seller, the buyer's representative shall present a personal identity document (passport, driver's license or identity card). If the identity document is not available or is not provided, and if the person receiving the goods is not included in the list of authorised representatives of the buyer, the Seller has the right to refuse to transfer the goods to this person.
- 3.10. The buyer shall confirm the transfer of ownership of the goods with the signature of his representative and by entering his name and surname clearly and legibly in accordance with the Seller's request on the bill of lading, invoice or delivery and acceptance act.
- 3.11. If during the sale of goods the buyer does not accept the goods within the set term(s) and at the place specified in the Agreement, it shall be considered as the delay of the buyer in accepting the goods. The buyer's delay in accepting the goods does not release the buyer from the responsibility to pay the price of the goods within the time agreed in the Agreement. If the buyer delays the acceptance of the goods, the Seller has the right to no longer perform the Agreement and claim for compensation for the damage caused by the Buyer's delay in accepting the goods.
- 3.12. If the Seller delivers the goods to the designated place of delivery by truck, the buyer shall unload the

goods from one truck within 1 hour. If the buyer delays unloading the goods, the Seller has the right to charge a downtime fee according to the Seller's price list valid at the time of the delay.

- 3.13. The Seller has the right, at its discretion, to insure the goods or to transfer the outstanding invoices to the credit institution (factoring), unless the parties have agreed otherwise in writing.

#### **4. Goods Compliant with the Terms of the Agreement**

- 4.1. EM hereby certifies that the quality of the goods complies with the requirements established by the legal acts of the Republic of Lithuania and the requirements and conditions provided in the certificates of conformity and (or) quality of the goods.

- 4.2. Upon receipt of the goods, the buyer shall check if the goods comply with the terms of the Agreement and the certificates of conformity and (or) quality.

- 4.3. The Seller shall send to the buyer the certificate of conformity and (or) the quality certificate in electronic form to the e-mail address specified in the Agreement no later than within three (3) working days after the delivery of the goods to the buyer. If the buyer wishes to receive certificates of conformity and (or) quality in paper form, EM shall provide them for a fee. The fee for issuing a paper document is one (1) euro (€) per sheet.

- 4.4. Upon acceptance of the goods, the buyer shall check that they correspond to their type, quality and quantity, and immediately notify the Seller of any defects, detailing such defects and

(or) non-conformities in writing in the bill of lading. If the bill of lading is not available, the defects shall be indicated in some other document certifying the delivery and acceptance of the goods. If it is not possible to determine the defect and (or) non-conformity right upon receipt of the goods, the buyer shall inform the Seller about the defect and (or) non-conformity as soon as possible, but no later than within seven (7) calendar days from receipt of the goods. The Seller shall rectify the defect or non-conformity within a reasonable time without causing additional costs to the buyer, unless the parties agree otherwise. If the defect and (or) non-conformity is not described in the bill of lading or other document confirming the transfer and acceptance of the goods, that shall be returned by the buyer to the Seller, the goods shall be deemed to have complied with the terms of the Agreement at the time of the transfer of ownership of the goods. The same condition shall apply if the defect or non-compliance is not sufficiently described so that such deficiency or non-compliance could be identified and corrected.

- 4.5. The Seller must be informed of goods are not compliant with the terms of the Agreement. This applies (without restriction) to goods (hidden defects) that are not compliant with the certificates of conformity and (or) quality and notices must be submitted in writing no later than within 30 (thirty) calendar days from the receipt of the goods and provide as much information as possible about the non-compliance. In case of partial deliveries - within 30 (thirty) calendar days from the date of

receipt of each part of the goods. The Seller shall not be obliged to accept the claims submitted after the expiry of the term specified in Clause 4.5 of these Standard Terms or at the end of the warranty period of the goods, or if the description of non-compliance with the Agreement is insufficiently accurate.

4.6. The Seller shall remedy the shortages of the quantity, replace the defective goods, including goods which do not conform to the certificates of conformity and (or) quality, or reduce the price of non-conforming goods within a reasonable period after the buyer has given notice. This is subject to the precondition that, in accordance with Clause 4.6, the Goods will be returned to the Seller in the same shape and condition as they were at the time of the sale (i.e., the buyer has not cut, folded, welded them, etc.). The Seller's liability shall be limited to the price of the defective goods.

## **5. Credit Limit of the Buyer**

- 5.1. Depending on the economic and financial situation of the buyer and its ability to pay invoices on time, the Seller may offer the buyer a credit limit, the amount of which shall be stipulated in the Agreement.
- 5.2. If a credit limit is set, the Seller shall transfer the goods to the buyer without any prepayment.
- 5.3. If the credit limit is exceeded, the Seller has the right to suspend the supply of goods and (or) demand a prepayment for the goods.
- 5.4. In order to be extended a credit limit and maintain it, the buyer, at the request of the Seller, shall submit to the Seller up to two (2) times a year its annual balance

sheet and profit (loss) statement signed by the legal representative on paper or digitally. The Seller has the right to use the provided balance sheet only for the calculation of the credit limit and shall not transfer the balance sheet to any third party and shall maintain the confidentiality of the contents of the balance sheet.

- 5.5. The Seller has the right to cancel the credit limit unilaterally if:
  - 5.5.1. the buyer refuses to provide its balance sheet to the Seller as described in Clause 5.4 of these Standard Terms;
  - 5.5.2. the buyer becomes insolvent or is the subject of reorganisation or bankruptcy proceedings;
  - 5.5.3. liquidation or compulsory cessation of activities is initiated;
  - 5.5.4. the buyer has exceeded the credit limit and has not paid the invoice within seven (7) calendar days from the final payment deadline specified in the invoice;
  - 5.5.5. the buyer has not exceeded the credit limit but has not paid the invoice within fourteen (14) calendar days from the final payment deadline specified in the invoice;
  - 5.5.6. the buyer has deferred payment of the invoice(s) at least two (2) times, and each deferral lasted more than seven (7) calendar days;
  - 5.5.7. the factoring company has closed the credit limit or refuses to factor the outstanding invoices of the buyer due to reasons related to the buyer;
  - 5.5.8. there exist other factors not mentioned hereinabove that indicate that the buyer is unable to fulfil its obligations to

the Seller.

- 5.6. The Seller has the right to reduce the buyer's credit limit unilaterally if the buyer's solvency and (or) financial indicators have worsened, or if the circumstances mentioned in Clause 5.5 occur, or if this occurs due to the fact that the factoring has reduced the credit limit of the buyer. The Seller has the right to increase the Buyer's credit limit unilaterally if the Buyer's solvency and financial indicators improve and, in the reasoned opinion of the Seller, the circumstances specified in Clause 5.5 do not exist.
- 5.7. The Seller shall inform the buyer of the cancellation or modification of the credit limit by sending a reproducible written report in good time and without undue delay.

## **6. Payments for the Goods**

- 6.1. The Seller shall sell the goods to the buyer at the price (according to the price list) specified in the Agreement or Offer.
- 6.2. The buyer shall make payments for the goods as per the invoices received from the Seller. The Seller shall send an invoice to the buyer's e-mail address specified in the Agreement, or by post to the buyer's postal address, or shall forward it upon delivery of the goods to the receiving party.
- 6.3. Unless otherwise agreed in the Agreement, the buyer shall make payments under the invoice within seven (7) calendar days. Payment under the invoice shall be made by a bank transfer in euros to the bank account indicated in the invoice issued to the buyer. The buyer shall be deemed to have paid the invoice when a full amount indicated on the

invoice is credited into the Seller's bank account.

- 6.4. The payment order under the invoice shall contain the commercial name of the buyer, invoice number and, if available, the buyer's "customer number" and (or) the reference number of the buyer's invoice.
- 6.5. In the event of late payment under the invoice, without prejudice to other rights of the Seller, the Seller shall be entitled to charge the buyer zero point two hundredths (0.02%) percent default interest on the overdue amount for each day of delay until full payment of the invoice.
- 6.6. If the buyer delays making a payment under the invoice for more than seven (7) calendar days, the Seller shall have the right to file a claim against the buyer with the debt collection company or any other person interested in receiving the debt claim. In such a case, in addition to the recovery costs, the buyer shall cover all the expenses directly or indirectly related to the preparation of the claim and other related actions.
- 6.7. In addition to Clause 6.5, the Seller shall have the right to suspend the sale of the goods to the buyer and (or) transfer the goods (Section 5 of this Agreement) until payment under the overdue invoice and any interest accrued thereon are paid. If the buyer delays making payments more than two (2) times, the Seller shall have the right to terminate the Agreement unilaterally without observing the period of notice specified in Clause 8.3.
- 6.8. If the buyer does not make a payment to the Seller for the goods

in advance, the Seller has the right to require the buyer to provide a first demand bank guarantee. If the required bank guarantee shall not be provided or if it is not compliant with the conditions specified by the Seller in the Agreement, the latter has the right not to sell the goods and (or) terminate the Agreement unilaterally without observing the period of notice specified in clause 8.3.

- 6.9. The buyer shall not be entitled to refuse to pay all or part of the invoice because the goods do not comply with the terms of the Agreement. If the goods did not comply with the terms and conditions of the Agreement at the time of the transfer of ownership to the buyer, the Seller and the buyer shall make a separate arrangement on compensation for such goods.
- 6.10. If the payment is not sufficient to cover all the obligations of the buyer, the payment shall be deducted in accordance with the following procedure:
- 6.10.1. costs related to debt recovery, including collection, legal services and court costs;
  - 6.10.2. compensation of losses;
  - 6.10.3. default interest;
  - 6.10.4. interest (in case of loan, credit line, etc.);
  - 6.10.5. the main amount of the financial obligation.
- 6.11. When selling goods from a warehouse, the cost of processing and selection of relevant certificates shall be added to each article of goods - the price according to the price list is one (1) euro (€) per item. When selling prefabricated goods or blanks, the cost of processing and selection of certificates shall be added - the price according to the price list is five (5)

euros (€) per set. Prices are indicated without VAT

## **7. Amendment of the Agreement and the Standard Terms**

- 7.1. Unless otherwise specified in the Agreement, it may be amended by agreement between the Seller and the buyer, but such amendments shall be valid only if made/submitted in writing and signed by both the parties. This provision does not apply in cases when the terms of the Agreement are changed due to the applicable legal acts or due to amendments to the legal acts of the Republic of Lithuania.
- 7.2. One party shall consider the proposal of the other party to amend the Agreement within fourteen (14) calendar days from the day of receipt of the proposal to amend the Agreement. If the Seller does not receive any written objections from the buyer to its proposal to amend the Agreement within the said period, the buyer shall be deemed to have accepted the amendments and they shall enter into force.
- 7.3. The Seller has the right to change these Standard Terms unilaterally by giving at least thirty (30) calendar days prior notice about the said change. The notice shall be published on the Seller's website [www.elmemetall.ee](http://www.elmemetall.ee) or in another manner specified by the Seller. In addition to the publication of the said information, the new version of the Standard Terms and the date of its entry into force must also be published on the said website. If the buyer does not agree with the amendment of the Standard Terms, it has the right to terminate the Agreement in a manner specified in Clause 8.3 of the Standard Terms upon fulfilment of all the obligations

to the Seller under the Agreement.

## **8. The Validity of the Agreement**

- 8.1. Unless otherwise specified in the Agreement, the Agreement shall enter into force after it is signed by the Seller and the buyer and shall be valid for a specified period of one (1) year.
- 8.2. Each time the Agreement shall be renewed automatically for the same period, unless one of the parties notifies the other party in writing of its intention not to renew the Agreement at least thirty (30) calendar days before the end of the Agreement. The number of renewals of the Agreement shall be unlimited.
- 8.3. The parties have the right to terminate the Agreement at any time by notifying the other party thereof in writing at least thirty (30) days in advance.
- 8.4. Upon expiry or termination of the Agreement, the buyer shall pay all the amounts due hereunder no later than on the last day of the Agreement. If the buyer fails to comply with the obligations hereinabove, the Seller has the right to initiate compulsory debt collection without complying with the period specified in Clause 6.6.
- 8.5. Unless otherwise stipulated in the Agreement, all amounts payable to the Seller by the buyer shall be subject to recovery in accordance with Clause 8.3 of the Standard Terms on the last day of the Agreement, regardless of the original settlement date.
- 8.6. Upon expiry or termination of the Agreement, the rights and obligations arising before the expiry or termination of the Agreement shall not cease.

## **9. Settlement of Disputes**

- 9.1. Any disputes and disagreements arising from the present Agreement shall be settled by means of negotiations between the parties.
- 9.2. If the parties fail to settle the dispute by means of negotiations, the dispute shall be referred to a court according to the location of the Seller's registered office and shall be settled in accordance with the laws and legal acts of the Republic of Lithuania.

## **10. Liability of the Parties**

- 10.1. The Seller and the buyer shall perform their contractual obligations in good faith and diligently following the practices relating to such business relationship.
- 10.2. The parties shall be liable for deliberate failure to perform contractual obligations. To the fullest extent permitted by law and unless otherwise agreed in writing by the parties, the Seller shall not be liable for indirect, incidental or punitive damages incurred by the buyer. Notwithstanding anything to the contrary, the Seller's total liability shall always be limited to twenty-five percent of the price of a particular order. The Seller shall not be liable for any loss resulting from the delay in performance of the obligations, except in cases of delay due to gross negligence or wilful misconduct.

## **11. Force Majeure**

- 11.1. If a party fails to fulfil its obligations under the Agreement or fails to fulfil them properly, it shall be released from liability if the said failure was caused by *force majeure* events. *Force majeure* means any

event beyond the control of the party that could not be reasonably foreseen at the time of the conclusion of the Agreement, was not taken into account and could not have been avoided by reasonably considering all the circumstances and their consequences.

11.2. A party that is affected by *force majeure* events so that it is prevented from fulfilling its obligations, shall notify the other party in writing no later than within two (2) calendar days from the date of occurrence of such events and, at the request of the other party, provide a document proving the existence of *force majeure* event.

11.3. If the effect of *force majeure* event is temporary, the term of performance of the Agreement shall be extended by the same period that *force majeure* events prevented the performance of the obligations under the Agreement. The maximum allowable period of default due to *force majeure* events shall be ninety (90) calendar days, but by no means longer than the actual period of existence of *force majeure* event. If any *force majeure* event continues for more than ninety (90) days, the parties shall have the right to terminate the present Agreement.

## **12. Authorised Representatives of the Parties**

12.1. The Agreement contains a list of authorised representatives of the buyer, who are entitled to place orders on behalf of the buyer, receive information on the execution of the order and the Agreement, receive and accept the Seller's Offer, receive goods and make claims to the Seller on behalf of the buyer.

12.2. In addition, the Agreement contains a list of the authorised representatives of the Seller, who have the right to accept the buyer's orders, claims, etc. and submit Offers to the buyer.

12.3. The list of authorised representatives of the Seller and the buyer as specified in Clauses 12.1-12.2 hereinabove shall be formalised as an annex to the Agreement.

12.4. The Parties shall notify each other of any changes to the list of authorised representatives in writing without undue delay.

12.5. Authorised persons shall be added to or removed from the relevant annex under a written notice given by an authorised representative of the party or by a party holding a power of attorney, the validity of which may be duly determined by the Seller (e.g., signed digitally). Amendments to the list of authorised representatives shall be made on the day following the receipt of the notice hereinabove.

## **13. Final Provisions**

13.1. The parties shall communicate in a simple written or digitally signed form, except for information notices, which may be provided in a reproducible form in writing or by telephone, provided that the Agreement or the Standard Terms do not provide otherwise.

13.2. The simple written form of notifications, orders, claims, amendments, acceptance, etc. specified in the Agreement and the Standard Terms may be replaced any time with a digitally signed form, provided that it is sent to the e-mail addresses of the parties specified in the Agreement.

- 13.3. The buyer may place an order and the Seller may submit an Offer in a form that can be reproduced in writing or by e-mail, always provided that such communication takes place to the e-mail addresses of the authorised representatives provided by the Agreement.
- 13.4. In case of recorded delivery of a notice, the receipt of which shall be confirmed by a signature, the notice shall be deemed to have been received on the date on which the addressee signs it. When a notice is sent by post, it shall be deemed to have been received on the date specified in the delivery notice.
- 13.5. Notices shall be sent to the postal address or e-mail address of the parties specified in the Agreement.
- 13.6. If the data specified in the Agreement is changed, the party whose data is changed shall notify the other party of such changes without undue delay.
- 13.7. Notwithstanding any other provision to the contrary, the buyer shall immediately notify the Seller of any changes to the data originally provided in the Agreement or in the documents transmitted to the Seller that may affect the proper performance of contractual obligations and (or) the credit limit set to the buyer. At the request of the Seller, the buyer shall provide the relevant documents confirming the said changes.
- 13.8. The present Agreement and the information provided by one party to the other party during the performance of the Agreement, other than these Standard Terms, shall be confidential and the parties shall not to disclose them or make them available to any third party

without a prior written consent of the other party. This restriction does not apply when such disclosure is necessary in special cases established by the laws and legal acts of the Republic of Lithuania. Nor shall this restriction apply to the disclosure of information to companies of the same group and to the disclosure of the Parties' auditors, lawyers, credit and financial institutions, provided that they also comply with the obligation not to disclose confidential information. Disclosure to a third party to whom one party transfers a claim against the other party shall not be considered a breach of the non-disclosure obligation.

#### **14. Protection of Personal Data**

- 14.1. The parties shall comply with the requirements of the legislation governing the protection of personal data (including, but not limited to, the EU General Data Protection Regulation No. 2016/679) in respect of each other or their employees, representatives and authorised persons. The buyer shall process the data (name, surname, position, work phone number, work e-mail address) received from the Seller or its employees, representatives, authorised persons when concluding/executing the Agreement in accordance with the requirements of legal acts and (or) approved personal data processing rules and shall ensure that the Seller has access to the rules and (or) can receive a copy thereof at any moment.
- 14.2. All the requirements under this Agreement may be controlled by the Government Quality Assurance Representative, i.e., GQAR. The buyer will be notified of any

activities of the GQAR.

