

GENERAL TERMS AND CONDITIONS OF SALE

„CIARKO spółka z ograniczoną odpowiedzialnością” Spółka komandytowa

of 16 December 2021

PREAMBLE

This document sets out the basic terms and conditions of commercial transactions relating to the sale of goods by the company „CIARKO spółka z ograniczoną odpowiedzialnością” Spółka komandytowa having its registered office in Sanok, registered in the Register of Entrepreneurs of the National Court Register under KRS Number 0000511982, REGON 180188544 of Tax Identification Number 685 221 01 22, BDO number 000009944 and their purchase by contractors who are not consumers within the meaning of applicable law.

§1.

DEFINITIONS

Wherever the following terms are used in these General Terms and Conditions of Sale of “CIARKO spółka z ograniczoną odpowiedzialnością” Spółka komandytowa with its registered office in Sanok, they shall be understood as:

- 1) **Seller** - „CIARKO spółka z ograniczoną odpowiedzialnością” Spółka komandytowa having its registered office in Sanok, registered in the Register of Entrepreneurs of the National Court Register under KRS Number 0000511982, REGON 180188544 of Tax Identification Number 685 221 01 22, BDO number 000009944;
- 2) **GTCS** – General Terms and Conditions of Sale defined here by the Seller
- 3) **Agreement** – shall refer to any sale agreement, delivery agreement or other agreements concluded into by the Seller and the Buyer, including an agreement concluded as a result of an order placed by the Buyer and confirmed by the Seller, on the basis of which or in the performance of which the Buyer acquires ownership of the Products from the Seller;
- 4) **Products** – movables manufactured by the Seller or included in the product range offered by the Seller;
- 5) **Buyer** - means an entrepreneur within the meaning of Art. 431 of the Act of April 23, 1964, the Civil Code (Journal of Laws of 1964 No. 16, item 93, i.e. Journal of Laws of 2020, item 1740, as amended);
- 6) **Written form** - means in writing within the meaning of Art. 78 of the Civil Code, unless the content of the GTS stipulates otherwise;
- 7) **Working days** - unless otherwise stipulated in the context of the Agreement, mean days from Monday to Friday, excluding public holidays falling from Monday to Friday;
- 8) **Order** - means a declaration made in electronic form by the Buyer regarding the demand for the Products indicated in the Order offered by the Seller.

§2

GENERAL TERMS AND CONDITIONS

1. The General Terms and Conditions of Sale, hereinafter referred to as the "GTCS", define the rules related to the sale and delivery of Products offered to entrepreneurs (the Buyers) by CIARKO spółka z ograniczoną odpowiedzialnością "Spółka komandytowa with its registered office in Sanok (the Seller).
2. These GTCS constitute an integral part of each offer, price list, cooperation contract, delivery contract, sales contract or other contract concluded with the Seller, and placing an order is

tantamount to the Buyer's acceptance of the provisions of the GTCS, unless the Parties agree otherwise. The current version of the GTCS is available in an electronic form on the Seller's website and directly at the Seller's premises.

3. These GTCS should be interpreted in full. Any conditions other than those described in the GTCS must be previously agreed on and approved in writing by both Parties under pain of nullity and as such they also take precedence over the GTCS.

§ 3.

OFFER AND CONCLUDING AN AGREEMENT

1. Catalogues, announcements, advertisements for Products published by the Seller or on his behalf, and other information about the Products do not constitute an offer within the meaning of Art. 66 of the Civil Code.
2. The Seller shall submit offers in writing, and this requirement shall also be considered met, within the meaning of this section, when an offer is submitted via e-mail
3. Offers submitted by the Seller will no longer be binding if the Buyer does not submit a declaration of acceptance of the offer within two weeks from the date of receiving the Seller's offer, unless a different date is indicated in the offer.
4. Offers submitted by the Seller may be accepted by the Buyer only without any reservations of changes or additions.
5. If the Buyer reports any changes or additions to the content of the offer submitted by the Seller, the Seller may, within two weeks of receiving the modified offer, submit a declaration of acceptance of the modified content of the offer in writing. Failure by the Seller to submit the declaration cited in the preceding sentence shall be deemed as the rejection of the proposed changes or additions to the offer.
6. The Sales Agreement shall be deemed concluded upon the submission by the Seller of the declaration of acceptance of the order submitted by the Buyer, and in the case of the offer submitted by the Seller - upon the delivery of the Buyer's order to the Seller in accordance with the Seller's offer (without changes and reservations).

§4.

ORDERS AND TERMS OF DELIVERY

1. Within the meaning of this Section, the submission of a declaration by the Seller or the Buyer via e-mail to the Seller's e-mail address provided in the offer, Order or Agreement shall also be considered equivalent to the written form.
2. All orders and offers submitted by the Buyer, as well as the proposed changes to their content, are considered effectively submitted only if they have been submitted and / or confirmed in writing.
3. Orders or offers submitted by the Buyer should be prepared on the Buyer's letterhead and have the form of a pdf document, ensuring the integrity of the content, and should contain detailed information on the Buyer's requirements for the Products, and in particular the Order will contain at least the following components:
 - a) Clear and unambiguous identification of the Buyer with an indication of the current tax identification number;
 - b) Index (unique identifier) and name of the Product;
 - c) The quantity of the ordered type of Product;
 - d) The price in accordance with the Seller's current Price List, delivered to the Buyer by the Seller;
 - e) Order date;
 - f) Expected date of order fulfillment;

- g) expected place of delivery;
 - h) indication of other terms of delivery.
4. Within 7 working days, the Seller will confirm via e-mail whether he accepts the terms of order fulfillment specified in the Order. If it is not possible to fulfill the order on the terms specified in the Order, the Seller will inform the Buyer about the reasons for the inability to fulfill the given Order and will possibly indicate new terms of the Order fulfillment. Failure to confirm the Order within the indicated period is tantamount to the Order not being accepted for execution.
 5. The standard deadline for completing the Order is 4 weeks from the confirmation of the Order by the Seller. In the event of any changes made to the delivery dates, the Seller will notify the Buyer of the changes and propose new conditions.
 6. The products will be packed in such a way that ensures their integrity during transport, loading and unloading. The Seller will select the materials and methods of packaging for the Product in order to meet the following requirements: Product protection, Product storage and the possibility of recycling.
 7. As standard, deliveries are made by the Seller on the terms of EXW Sanok (Incoterms 2020), unless the parties agree otherwise at the stage of placing and confirming the order.
 8. Each receipt of the Products will be confirmed by the Buyer or his representative by signing a delivery document (Delivery Note, CMR or other) at the place of delivery.
 9. Products are considered to be handed over by the Seller and collected by the Buyer in accordance with the delivery document on the date it is signed by the Buyer or his representative. The Seller is not responsible for the quantitative shortages of Products, except for those indicated on the delivery document.
 10. Upon signing the delivery document by the Buyer or his representative, the Buyer bears the risk of accidental loss or damage to the Products.

§ 5.

PRICE

The unit prices of Products delivered on the basis of these GTCS and separate Agreements concluded with the Seller are specified in the Seller's current Price List, attached to the Seller's offer, unless the Agreement provides otherwise.

§ 6.

TERMS OF PAYMENT

1. Payments will be made on the basis of VAT invoices issued by the Seller.
2. The currency and terms of payment will be specified in the Agreement concluded by the Parties or in the confirmed Order. The price of the Products will be increased by VAT at the currently applicable rate.
3. The Buyer shall pay the amount due within the period agreed between the Parties, specified in the Order confirmation or in the issued VAT invoice, by bank transfer to the Seller's bank account specified in the invoice.
4. The date of payment shall be the date of crediting the Seller's bank account.
5. In the event of delay in payment, the Seller may demand immediate payment of the outstanding amount with statutory interest on arrears.
6. In the event of delay in payments, the Seller has the right to suspend subsequent deliveries until the payment is settled, while retaining the right to charge interest for the delay. After settling the payment, the Seller will promptly indicate to the Buyer the new date of the Order fulfillment. The Seller may also summon the Buyer to pay the dues within 7 (seven) days from the date of delivery

of the request to the Buyer, and in the event of failure to pay within the time limit thus set, the Seller may withdraw from the Order in its entirety.

7. The Seller declares that he has a large company status within the meaning of Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014, which recognizes certain types of aid as compatible with the internal market pursuant to Art. 107 and art. 108 of the Treaty (Official Journal of the European Union L 187 of 26/06/2014, p. 1, as amended).
8. The Parties accept that in the event of a change of the Seller's Status to the status of a micro, small or medium-sized company within the meaning of Annex I to Commission Regulation (EU) No 651/2014 of 17 June 2014, declaring certain types of aid compatible with the internal market in application of art. 107 and art. 108 of the Treaty (Journal of Laws EU L 187 of 26/06/2014, p. 1, as amended), the payment date indicated by the Buyer in the Orders may not exceed 60 days from the date the debtor is served the invoice or the bill confirming the delivery of the goods or performance of the service.

§7.

PRODUCT QUIALITY AND WARRANTY

1. The Seller guarantees to the Buyer that the Products delivered under the Agreement meet the European standards required for this type of Products, that the Products constituting the subject of the Agreement will be made in accordance with the Agreement, that the Products will be new, complete and not used before, and that they do not have physical or legal defect.
2. The Seller grants a 24-month warranty for the Products delivered. The warranty is counted from the date of delivery of the Product to the Buyer.
3. The Buyer is obliged to check the delivered Products immediately, with due professional diligence and in accordance with applicable law.
4. If the delivered Products do not meet the quality requirements, the Buyer has the right to submit appropriate claims against the Seller by drawing up a complaint protocol in writing and serving it effectively to the Seller immediately, no later than within 5 days from the detection. All claims against the Seller shall be submitted in electronic form, including to the e-mail address servis@ciarko.pl and the addresses indicated in the Order.
5. The complaint will be considered on the condition that the following data is provided: order date, Product name, quantity subject to complaint, precise and detailed description of the reason / subject of the complaint / defects revealed.
6. The Seller shall consider the complaint within 21 days of its receipt.
7. Taking into account the quantity complaint, the Seller will provide the Buyer with the number of missing Products or will reduce the price accordingly for the missing part of Order.
8. In case of a complaint regarding the quality, the Seller shall replace the faulty Product with a Product free from defects. If the Seller is not able to deliver Products free from defects, he will inform the Buyer about it and offer a price reduction.
9. The Buyer will take over the guarantor's obligations towards his end customers, unless the Parties agree otherwise. Subject to the preceding sentence, the Buyer undertakes to provide the final customer with information that complaints under the warranty should be reported to the Buyer.
10. Complaints concerning the damage to the Products resulting from improper use, installation or storage of the Products will be considered groundless and will not be taken into account.
11. The Buyer or the entity indicated by the Buyer as responsible for the provision of maintenance services undertakes to purchase spare parts for the Products directly from the Seller or an entity indicated by the Seller. Repair of the Products with the use of spare parts from another source voids the warranty.
12. The Seller excludes the application of the provisions of the Civil Code on the warranty for physical defects of the Products.

§8.

SELLER'S LIABILITY

1. The Seller is liable only for the correct execution of the Order, in accordance with the parameters indicated by the Buyer in the Order placed and within the limits of the actual damage suffered by the Buyer. In particular, the Seller is not responsible for the Buyer using the delivered Product inconsistently with its intended use, for the suitability of the Product for the purpose intended by the Buyer and for faulty assembly, as well as for the choice of technical solutions, and selection of the assembly method.
2. The Seller shall not be liable for differences in colors and shades of the delivered Products of the same type, if these differences result from the use of components for production, the parameters of which are within the tolerance provided by the relevant standards for this type of components.
3. The Seller is not liable for damages caused by improper storage of the Products, and for the consequences of using inappropriate installation and assembly materials.
4. The Parties exclude the Seller's liability for damage caused to third parties by Products delivered to the Buyer by the Seller, including damage caused to them by a dangerous product. The Buyer shall indemnify the Seller from liability towards third parties and undertakes to satisfy all claims submitted by them.
5. Apart from the claims set out explicitly in these GTCS, the Buyer is not entitled to any further claims against the Seller under the Civil Code, as well as claims based on other legal grounds.
6. If the Buyer withdraws the placed Order, which is in progress, or introduces any changes to such an Order, the Buyer is obliged to cover all costs incurred by the Seller in connection with the implementation of the original Order, in particular the costs of the ordered materials, costs of manufactured Products, and the production process being underway. These materials, Products and production process underway, after settling the payment, are the property of the Buyer and will be delivered to him by the Seller in accordance with the terms of delivery.
7. Any photos, drawings, sketches, designs, mock-ups, IT tools and other materials of this type provided by the Seller to the Buyer are the property of the Seller. These materials are intended only for the use of the Buyer to the extent specified by the Seller, and their disclosure to third parties requires the prior consent of the Seller, expressed in writing, under pain of nullity.

§ 9.

FORCE MAJEURE

1. The parties shall not be liable for non-performance or improper performance of obligations under the agreement, if such non-performance or improper performance is a consequence of force majeure.
2. For the purposes of this Agreement, "force majeure" means external, extraordinary events that the Parties could not foresee, avoid or prevent, even with due diligence. The term "force majeure" includes natural disasters, states of epidemics, pandemics, epidemic threats, fires, earthquakes, floods, storms, wars and hostilities, blockades, uprisings, sabotage, revolts, national strikes, embargoes, prohibitions and restrictions introduced by authorities state and other circumstances beyond the control of the Parties and arising after the conclusion of this Agreement. In particular, the Parties agree that force majeure are the events and limitations that may be introduced by state authorities in connection with the COVID-19 epidemic and which will prevent the Parties from implementing this Agreement or execution of individual orders under the conditions specified therein.
3. The party affected by Force Majeure is obliged to immediately notify the other Party in writing, otherwise null and void, of the occurrence of circumstances bearing the features of Force Majeure within the meaning of sec. 2 above. The Parties undertake to immediately negotiate the concluded Agreements in order to restore the contractual balance. In the event that the conducted negotiations do not lead to reaching an agreement within 30 days from the date of notification of the occurrence of circumstances justifying the commencement of these negotiations, the Agreements concluded by the Parties shall be terminated in the part not yet performed by both Parties, on the first day following the expiry of the 30-day period provided for negotiations, unless the Parties agree

otherwise. It is explicitly stated that in the event that the termination of the Sales Agreement takes place after the performance of a part of the service by one of the Parties, and before the other Party fulfills the relevant part of the service, the termination of the contract does not terminate the obligation of the other Party to fulfill the relevant part of the service.

§ 10. ARBITRATION

1. In the event of any disputes arising from the Sales Agreement or other agreement concluded by the Parties, the Parties shall resolve them amicably.
2. If it is not possible to resolve the dispute in the manner specified in par. 1 above, disputes will be settled by the court competent for the seat of the Seller.

§11. PERSONAL DATA PROTECTION

1. In connection with the contracts concluded as part of running the business, the Seller, as the Administrator, obtains from Buyers / customers the data of persons involved in the implementation of orders / Agreements (eg contact persons, persons authorized to place orders, collect delivery, etc.). The scope of the data obtained is in each case limited to the extent necessary for the performance of the contract.
2. The legal basis is the legitimate interest of the Administrator and the Buyer (Article 6 (1) (f) of the GDPR) consisting in enabling the Parties to properly perform the contract. In this case, the data may be disclosed to third parties involved in the performance of the Agreement, but only to the extent necessary for its implementation.
3. Providing data is voluntary, and failure to do so results in the inability to fulfill the order or the Agreement.
4. The data is processed for the period necessary to complete the above-mentioned interests and fulfill the obligations resulting from the regulations

§ 12. OTHER CONDITIONS

1. Any changes and additions to the Sales Agreement or other agreements concluded by the Parties shall be made in writing under pain of nullity, unless the Agreement or these GTCS provide otherwise.
2. The reservation contained in para. 1 above does not apply to changing the content of these GTCS. The change is understood as: introducing changes to the applicable GTCS, repealing the GTCS and introducing new GTCS. The changes are binding for the Buyer with regard to all orders placed after the Buyer receives the changed or new GTCS.
3. In matters not regulated by and exceeding the provisions of the General Terms and Conditions of Sale, the current written arrangements between the Parties and the relevant provisions of Polish law shall apply.
4. In the event of the invalidity of some provisions of the GTCS, as a result of introducing different statutory regulations, the remaining provisions shall remain in force.