


CHL-0000029	Sales Contract	
MH-Kap-8-1	General Sales Terms & Conditions	
Revision: H		

The following general terms and conditions for the sale and delivery of products (**General Sales Terms and Conditions**) govern the legal relationship between you as customer (**Customer**) and us as supplier (**Carbo-Link**), customer and Carbo-Link together the (**Parties**). When concluding an agreement or placing an order, you accept these Terms and Conditions and acknowledge that they form an integral part of the agreement.

Carbo-Link reserves the right to amend these Terms and Conditions at any time. Such amendments shall be notified to the Customer in writing and shall apply to all orders placed by the Customer after the receipt of the notice of the Terms and Conditions' amendment.

1.1 Order, Offer, Conclusion of Agreement

A binding agreement between the Customer and Carbo-Link is concluded:

- In the case of an order by the Customer: if our written confirmation of the order has not been explicitly objected against within five (5) days;
- In the case of an offer by Carbo-Link: by the [written] confirmation of the offer by the Customer.

All offers made to the Customer by Carbo-Link are binding for the duration of four (4) weeks from offer date, unless otherwise stated in the specific offer.

1.2 Pricing

Prices disclosed in pricelists, brochures, internet, etc. are subject to change and not binding and only serve for information purposes.

All prices refer to the offered specifications, volumes and lot sizes, respectively. In case of any discrepancies of the products from the offered specification, volumes and lot sizes, respectively, we reserve the right to amend the prices.


Unless specifically agreed upon in writing, our prices are ex-factory [ExWorks] in CH-8320 Fehraltorf (Switzerland), excluding packaging, transportation, VAT, sales or other applicable taxes, and custom fees. Any such taxes or custom fees shall be payable by the Customer. For shipments within Switzerland, VAT will be added to the invoice and shown separately (in the invoice) and is to be paid additionally. At the Customer's request, Carbo-Link can arrange all packaging, transport and delivery on behalf of the Customer. However and unless specifically agreed otherwise, the prices and associated costs remain ex-factory [ExWorks], i.e. all associated costs and charges, including but not limited to insurance, customs and brokerage fees, are due and payable by the Customer within the defined payment terms.

In case that the Parties expressly agree on another transport mechanism than ex-factory, it will be specifically agreed between the Parties in writing which Party has to bear the respective costs for packaging, transport, VAT, sales or other taxes and custom fees. In the absence of any specific agreement, Carbo-Link will not be responsible for the customs regulation and the payment of custom fees.

A transport insurance is not included in the price and shall be concluded only upon the explicit request by and at the cost of the Customer. However, in case that another mechanism than ex-factory is agreed upon between the Parties, Carbo-Link has a transport insurance and will incorporate the respective insurance costs in its pricing.

1.3 Customer Modifications

Any requests for modifications to our offer / our order confirmation (e.g. with respect to specifications, volume or deadlines) are to be made by the Customer in due time in writing. Carbo-Link cannot assure that requests for modifications shall be taken into account if they have not been made in due time in writing, and Carbo-Link is not responsible, does not warrant and is not liable if the products delivered do not comply with the modification request, which was made too late and/or not in writing.

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If for technical reasons, it is necessary to modify the ordered products, Carbo-Link reserves the right to adjust the prices and/or deadlines accordingly. Carbo-Link notifies the Customer of such adjustments.

In case of call-off orders, requests for modifications may only be made as per the end of the agreed upon lot size / call-off period or upon a written agreement. In case of any requests for modifications before the end of the agreed upon lot size/call-off period, Carbo-Link reserves the right to adjust the prices or deadlines.

1.4 Invoice and payments

Carbo-Link invoices are to be paid net without any deductions (no discounts, no retainers).

Down payments are due at time of order, progress payments as well as final payments are due within 30 days of invoice date, unless otherwise specified in writing.

After the final date for payment, the Customer is automatically in default without any further notice. Carbo-Link is entitled to charge a penalty interest of 5% p.a. after the first reminder in case of any late payments.

In case of any default in payment, Carbo-Link may

- after notifying the Customer withhold the delivery of the products or the performance of the services until all outstanding amounts have been paid in full (even if an open invoice of the Customer does not relate to the order of the specific product to be delivered), or
- after giving the Customer an additional deadline for a late payment, withdraw from the contract and demand the return of the products delivered.

1.5 Reservation of Proprietary Rights

The products delivered by Carbo-Link shall remain the property of Carbo-Link until the purchase price has been paid in full or, in case of payment by a bill of exchange (*Wechsel*) or check, after the purchase price has been credited on Carbo-Link's account. Carbo-Link is – without the consent of the Customer – entitled to have the reservation of title registered at the Customer's expense in the register of reservation of title.

1.6 Packaging & Delivery


The products are, in principle, to be picked up at Carbo-Link's factory in CHF – 8320 Fehraltorf (Switzerland), unless agreed otherwise by the Parties in writing.

Carbo-Link will make reasonable efforts to deliver the ordered products within the time or by the dates stipulated in the offers and/or order confirmation, but these times and dates are given and intended as estimates only.

The delivery period (*Lieferfrist*) starts, in principle, from the date of Carbo-Link's order confirmation or as specified in the offer. However, if the Customer has to deliver documents and information in connection with the order to Carbo-Link, the delivery period shall start at the earliest upon receipt of the entire documentation / information by Carbo-Link.

Carbo-Link is in particular entitled to extend the delivery deadlines if the documentation or information required for the performance of the order has not been delivered on time to Carbo-Link or if such documentation/information was amended later. In addition, the deadline may be extended in the constellations as described in section 1.3 above (late Customer modifications).

Products, which have not been picked up within 30 days of the planned delivery date, have, nevertheless, to be paid pursuant to the invoice. The Customer has to pay 1% per month of the value of the products, which have not been picked up, for storage; if the storage costs incurred exceed this lump sum, Carbo-Link is entitled to request payment of the actual storage costs incurred. The same applies likewise if the Customer refuses to accept the delivery of the products.

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In case Carbo-Link exceeds the delivery period, Carbo-Link does not assume any liability for any shortages, disruptions, production stops, consequential damages, further late performances by the Customer and damages, liquidated damages, etc. arising out of the delay in delivery. A non-material delay in delivery caused by Carbo-Link does not entitle the Customer to withdraw from the contract.

Liability is also excluded in the above mentioned extent in the case of late Customer modifications (see section 1.3 above). In constellations in which the Parties agree that the products must be delivered to a designated location, the Parties acknowledge that Carbo-Link is dependent on the performance of third parties. In case that Carbo-Link demonstrated the appropriate diligence in selecting, instructing and monitoring the third parties, a liability of Carbo-Link for any damages arising out of or in connection with a delivery delay caused by such third parties is entirely excluded. Liability is, in particular, excluded for delays and damages caused by third parties, which are not instructed by Carbo-Link, but rather by the Customer. Liability is also excluded for delays and damages caused by third parties, which were selected or proposed by the Customer (i.e. custom brokers, etc.).

In case of ex-factory delivery or in case that transport agreements were executed in the name and for the account of the Customer, any complaints arising from breakage, damage or delays resulting from the transport must be brought forward by the Customer to the responsible shipper carrier, train, post services, etc. Carbo-Link has to be notified within 3 working days of any transport damage. In case that the Parties have agreed on the delivery of the products to a specific location and in case that Carbo-Link has executed the transport agreements in its own name, Customer has to notify Carbo-Link within 3 working days of any transport damage so that Carbo-Link is able to regulate the damage.

1.7 Benefits and Risks

Unless otherwise expressly agreed in writing, benefits and risks shall pass to the Customer as soon as the ordered products are available to be picked up [and Carbo-Link has notified the availability of the products to the Customer].

1.8 Warranty & Liability

Carbo-Link warrants that the products comply with the specifications as agreed between the parties in the order confirmation / offer, including Customer modifications, which were delivered to Carbo-Link timely (see section 1.3 above), and are free of defects in accordance to these specifications. Carbo-Link further warrants that it has manufactured the products according to state of the art workmanship.

Upon delivery, the Customer shall examine the products immediately. Should the Customer discover any defects for which Carbo-Link has given a warranty, the Customer must immediately, in any case not later than five working days, notify Carbo-Link of such defects. If the Customer misses such examination and notification, the products are deemed to be accepted and the warranty for such defects expires.


In case of a warranty claim, Carbo-Link shall rectify any defects at its own discretion by repair work or replacement. A price reduction or a rescission is only permitted after the Customer has set Carbo-Link, without success, a reasonable deadline to rectify the defects. Any parts replaced shall become the property of Carbo-Link.

Warranty is subject to the conditions and limitations below:

1. Warranty for any specifications provided by the Customer, which Carbo-Link is not able to verify, i.e. size and dimensions of the end product in which the products delivered by Carbo-Link shall be integrated, size and dimensions of the products, which are dependent from the end products, intended use of the products, quality requirements / specifications communicated by the Customer, is entirely excluded.
2. All products are solely to be used within the agreed specifications in the order confirmation / offer, including Customer Modifications,, are properly maintained, and shall be installed in accordance with Carbo-Links' operating instructions and service guidelines.
3. The product/s subject to a warranty claim must be made available to Carbo-Link for inspection and evaluation.

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Freigabedatum: 29.04.2021	Erstellt von: jwi, gul	Freigegeben durch: awi
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4. Carbo-Link is not responsible for the shipping costs, uninstallation or installation costs, or any labor associated with any warranty claim.
5. Any service work, repair work or attempted repair work carried out by the Customer or any third party, which has not been authorized by Carbo-Link, shall result in the complete loss of warranty.
6. The notification of any defects does not entitle the Customer to delay or refuse any payment on parts shipped.
7. The following conditions are not covered under Warranty:
 - a. Failures due to use of products outside of their intended use or in an imprudent manner;
 - b. Failures due to wear and tear, improper installation and improper maintenance;
 - c. Failures due to conditions that exceed the product/s specifications, or Customer supplied specifications which are not fit for purpose.
8. In case of a warranty claim, Carbo-Link will assume liability according to the applicable law for damages resulting as a direct consequence of such a claim.
9. Any further liability or damage claims are explicitly excluded. Carbo-Link is, to the extent legally permitted, not liable for indirect consequential damages, non realized profits or other damages incurred by the Customer nor for any non-contractual claims.
10. To the extent permitted by law, the liability of Carbo-Link shall in any case not exceed 10 million CHF.

The above mentioned limitations of warranty also extend to all claims that compete with the warranty rights, whether they arise from contract (Art. 97 ff. OR), tort (Art. 41 ff. OR), rescission of the contract due to error (Art. 23 ff. OR) etc.

1.9 Samples, measurement and technical consulting

Upon request, Carbo-Link advises the Customer with respect to the choice of the products and the considered use to the best of its knowledge. However, Carbo-Link does not assume any liability for such advice unless explicitly stated in writing in an offer or order confirmation.


Certain measurements can be performed with verified measuring devices. Verification method, frequency and acceptance criteria can be seen upon request.

Samples and models as well as their technical or chemical descriptions are given for information or product description purposes only. They do not constitute any representation (*Zusicherung*) with respect to the characteristics of the product.

1.10 Intellectual Property Rights

All rights, title, and interests, including any intellectual property rights vested therein, in any and all documentation, including but not limited to cost estimates, offers, designs, pictures, models, product specifications and technical drawings, documents, material and information, which were created or developed by Carbo-Link prior to or in connection with the provision of the agreed services to the Customer, are and remain vested in Carbo-Link. The agreements between Carbo-Link and the Customer do neither expressly nor implicitly assign any such rights to the Customer. The Customer is not permitted to – directly or indirectly – exploit them for own purposes and may neither disclose nor make them available to third Parties without the prior written approval by Carbo-Link. Disclosure and transfer of such documentation, documents, material and information to the Customer is not to be understood as a transfer or assignment of the respective rights to the Customer, unless expressly agreed to the contrary in writing.

They shall be returned to Carbo-Link upon its request, and in any case upon termination of the agreement. They are qualified as confidential information and subject to the separate mutual non-disclosure agreement to be executed by the Parties.

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1.11 Publicity

Customer grants to Carbo-Link a limited right, (i) to make a statement on its website and in other marketing material or presentations that Customer is using Carbo-Link's products and (ii) to include pictures in above context showing the products of Carbo-Link that are used by Customer and/or the equipment and/or environment they are used for.

1.12 Applicable Law

Any general terms and conditions of the Customer, which deviate from these Terms and Conditions, shall not be binding upon the Parties, unless the Parties explicitly agree otherwise in writing and such agreement is confirmed by Carbo-Link in writing.

The legal relationship between the Customer and Carbo-Link is exclusively governed by the substantive laws of Switzerland (under the exclusion of any provisions of international private law and the Vienna Convention on the sale of goods).

Any term or provision of these Terms and Conditions that is invalid or unenforceable under prevailing law shall not affect the validity or enforceability of the remaining provisions hereof. The Parties agree that any invalid or enforceable term or provision shall be replaced with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision to the extent legally possible.

1.13 Place of Performance, Jurisdiction

The place of performance for all applications arising out of the legal relationship between the Customer and Carbo-Link shall be at the registered office of Carbo-Link.

Exclusive place of jurisdiction for any dispute, controversy or claim arising out of or in connection with the legal relationship between the Customer and Carbo-Link shall be at the registered office of Carbo-Link in Switzerland.

1.14 Cancellation and Termination

The specific contracts end when the products are delivered or picked up, except for sections, which shall by their nature remain binding even after the termination of a specific contract.

As long as the products are unfinished, the Customer can withdraw from the contract at any time against payment of either the work already performed and against full indemnification of Carbo-Link, or 80% of the full order price agreed upon by the Parties – the bigger amount prevails.

The termination / cancellation causes all payment obligations to be due.


The termination / cancellation shall not prejudice any other remedies, which the Parties may have under this agreement.

Provisions, which explicitly or implicitly survive the termination of the agreement (e.g. the duty of confidentiality) shall not be affected by the termination and remain in full force.

The Parties shall return to the other Party all documents and information that have been handed over in connection with the offer / order. The Parties are obliged to delete or destroy any copies of such documents and information in their possession and confirm it upon request by the other Party.

1.15 Force Majeure

Carbo-Link shall not be liable to the Customer nor shall any other remedy be extended in respect of anything which, apart from this provision, may constitute a breach of the terms of an order arising by reason of force majeure (i.e. any event beyond a party's reasonable control, including acts of war, earthquakes, hurricanes, floods, fires or other similar casualties, embargos, riots, terrorism, sabotage, strikes, governmental acts, insurrections, pandemics, epidemics, failures

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of power, restrictive laws or regulations, court orders, condemnation, failure of the Internet or other event of a similar nature).

If Carbo-Link is unable to provide the required services and deliver the ordered products for a period in excess of thirty (30) consecutive calendar days due to an event of force majeure, then Carbo-Link or the Customer may cancel the relevant order upon written notice to the other Party, and all Parties shall be released from any further future liability for such order.