

## **General Terms and Conditions**

Winter.pumpen GmbH  
An der Autobahn L2  
D-91161 Hilpoltstein

### **I. Definition, Scope**

1. The following terms and conditions only apply to companies within the meaning of § 310 Para. 1 BGB.
2. Our terms and conditions apply exclusively; Winter.pumpen GmbH (hereinafter referred to as Winter.pumpen) does not recognize conflicting or deviating customer conditions. The following terms and conditions also apply if Winter.pumpen makes the delivery to the customer without reservation in the knowledge of conflicting or deviating terms and conditions of the customer.
3. Agreements deviating from these terms and conditions or Subsidiary agreements are only effective if they pump through Winter.pumpen have been confirmed in writing.

### **II. Offers, order confirmation**

1. A delivery contract is only concluded when either the customer has received a written order confirmation from Winter.pumpen or the goods have been dispatched by Winter.pumpen.
2. The information in drawings, lists and catalogues, as well as illustrations and weight specifications, are only to be regarded as approximate.

### **III. Prices - terms of payment**

1. All Winter.pumpen prices are net prices ex warehouse without packaging. Unless otherwise agreed in the order confirmation, shipping is always freight collect.
2. Unless fixed prices have been expressly agreed, the list prices on the day of delivery shall apply. All changes in a foreign currency or its exchange rate to the EURO that occur after the conclusion of the contract affect the customer.
3. The delivery times specified by Winter.pumpen are delivery times from the delivery works in working days. If the customer's assistance is required to complete a work, the delivery time specified by Winter.pumpen is understood to be from the date on which the required documents from the customer have been received by Winter.pumpen.
4. The dates and conditions specified in the order confirmation apply to payment deadlines. First orders under 200.00 EURO will only be accepted against cash on delivery or against advance payment.
5. Payments are only to be made to Winter.pumpen or to their bank accounts. The customer makes payments to representatives at his own risk. Despite the granting of a payment period, the purchase price is due immediately if the customer defaults on another item or if circumstances arise that give reason to fear that the claim may be jeopardized.

### **IV. Late Payment**

If the customer does not meet his obligation to pay within the set payment target despite a reminder and a deadline or if an application is made to open insolvency proceedings against the customer's assets, the entire remaining debt from the business relationship plus all ancillary costs are due immediately. In these cases, Winter.pumpen is entitled to withdraw from all contracts that have not yet been fulfilled and to take back goods that have already

been delivered and not yet paid for under retention of title and to demand reimbursement of all costs associated with the withdrawal.

## **V. Retention of title**

1. Winter.pumpen retains ownership of the delivery items until all payments from the business relationship with the customer have been received.
2. The customer is entitled to resell the delivery items received from Winter.pumpen within the ordinary course of business; however, he assigns all claims to Winter.pumpen in the amount of the purchase price (including VAT) agreed between Winter.pumpen and the customer upon the effective inclusion of these conditions. The customer is authorized to collect the claim after its assignment. The authority to collect the claim yourself remains unaffected by this agreement, however, Winter.pumpen undertakes not to collect the claim as long as the customer meets his payment obligations properly and completely and is not in default of payment. However, if the customer is in default of payment, Winter.pumpen can demand that the customer disclose the assigned claims and the names of the third-party debtors and hand over all documents required for collection and disclose the assignment to the third-party debtors.
3. The processing and/or transformation of the items delivered by Winter.pumpen by the customer is always carried out by the customer for Winter.pumpen. If the delivery items are processed, mixed or blended with other items not owned by Winter.pumpen, Winter.pumpen acquires co-ownership of the new item in proportion to the value of the delivery items to the other processed items at the time of processing. The customer keeps co-ownership for Winter.pumpen.
4. The customer may neither pledge the delivery items nor assign them as security. In the event of attachments, confiscations or other dispositions by third parties, the customer must inform Winter.pumpen immediately of this process and provide Winter.pumpen with all the information and documents required to protect its rights. Enforcement officers or third parties are to be made aware of the property of Winter.pumpen.

## **VI. Deliveries, delivery time**

1. Adherence to the delivery and service dates agreed between the contracting parties presupposes that all technical questions have been clarified and all necessary documents, sketches, drawings, tools, etc. have been handed over by the customer and payments or other obligations on the part of the customer have already been clarified. If this does not happen, the deadline for delivery will be extended by the duration of the hindrance.
2. Delivery times are approximate. Transport delays, cast rejects, material defects and force majeure release Winter.pumpen from punctually meeting the deadline, even if the obstacles occur in the operation of a subcontractor. The customer cannot cancel the order or claim damages for such reasons.
3. If the delivery is delayed at the request of the customer, the goods will be stored at the customer's risk and expense at Winter.pumpen. For the cost of storage, Winter.pumpen charges a flat rate of 0.5% of the value of the goods per month or part thereof, but at least 60.00 EUR per month.
4. Transport insurance is covered by Winter.pumpen for deliveries free destination. For deliveries ex works, the insurance must be covered by the customer. Any transport damage must be reported to and confirmed by the carrier upon acceptance. Defects that are not immediately recognizable - no recognizable damage to the packaging - must be reported within 8 days of receipt of the goods at the latest.

5. Installation (assembly) of delivered machines and machine parts is not included in the price unless this has been expressly confirmed to the customer.
6. If assemblies have been agreed, they will be billed accordingly. In addition, Winter.pumpen calculates the mileage allowance for the fitter if a car is used for the journey. Waiting times of the fitter not caused by Winter.pumpen will be charged like the assembly time. Overtime and night work by the fitter are subject to a corresponding surcharge.
7. The set-up and lifting equipment required by the fitter, as well as oil, fuel and lubricants are to be procured by the customer at his own expense.
8. The transfer of risk is regulated according to the conditions written in the order confirmation. The INCO-Terms in their currently valid version are included in the terms of delivery, insofar as reference is made to them.
9. If no conditions are specified on the order confirmation, delivery is at the risk and expense of the customer. This also applies to any necessary return transport. Transport packaging and all other packaging will not be taken back unless expressly agreed between the parties.

## **VII. Liability for defects**

1. If a product has been specially specified between Winter.pumpen and the customer, it is free of material defects if recognized production-related tolerances are observed. The customer can only invoke an intended purpose of use if this has been expressly agreed in writing.
2. Unless otherwise agreed between the parties, Winter.pumpen assumes the warranty for the delivered goods/works in such a way that all parts in the delivered works will be repaired free of charge within 6 months after dispatch of the delivery items, provided that the works become unusable as a result of defective material or poor workmanship. The day of dispatch ex works is decisive. Liability from warranty claims is out of the question if the customer
  - carries out or has already carried out repair work on the delivered items on his own authority,
  - the works and objects delivered are used differently than specified for Winter.pumpen,
  - Damage due to poor and/or insufficient maintenance has caused.
3. Parts that are subject to natural wear and tear - such as mechanical seals, split rings, ball bearings, clutch packs, indicator lights, fuses, etc. - are excluded from the aforementioned warranty.
4. The customer undertakes to notify Winter.pumpen immediately of any defects that may occur.
5. Compensation for damage to third-party objects, wages, loss of profit and similar expenses cannot be paid.
6. In the event of a defect, Winter.pumpen undertakes to rectify the defect in its own production facilities or to provide a replacement. The defective parts must be sent to Winter.pumpen at the customer's expense.
7. For warranty repairs at foreign locations, the transport/travel costs incurred will be charged.
8. The warranty for the elimination of defects in the delivered items expires if a defect is not reported within 8 days after the machine or the delivered parts have been put into operation.
9. Models or machine parts that are sent to Winter.pumpen will be stored by Winter.pumpen at the risk of the customer.
10. Unless otherwise agreed above, liability for defects is otherwise excluded.

## **VIII. Examination**

1. Unless otherwise expressly agreed with the customer, the pumps supplied by Winter.pumpen are tested at Winter.pumpen on the basis of the standard test plan based on ISO 9906 - Class 2 and - if applicable - according to Appendix A1 or A2 checked.
2. Unless otherwise agreed, material and/or test certificates are not included in the scope of delivery.

## **IX. Counterclaims, Transferability**

1. The customer is only entitled to set-off claims if his counterclaims have been legally established, are undisputed or have been recognized by Winter.pumpen. In addition, the customer is only authorized to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
2. The customer can only assign a right from the contracts concluded with Winter.pumpen with the consent of Winter.pumpen.

## **X. Foreign trade**

1. European and German foreign trade law applies to the delivery of goods with cross-border implications for the fulfilment of the contractual obligation. Accordingly, these deliveries of goods may be subject to restrictions and prohibitions under export control law. We refer in this regard to the Dual-Use Regulations inclusive of appendices, the Foreign Trade and Payments Act (Außenwirtschaftsgesetz, AWG), the Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung, AWV) as well as their appendix (Part I Section A and B of the German Export List) in their respective valid versions. In addition, compliance with European and national embargo regulations vis-à-vis various countries, persons, companies and organisations is required, which may prohibit the supply, provision, transfer or export and sale of goods and the performance of services or render them subject to authorisation.
2. The customer is required to acknowledge and comply with the European and German export control regulations and embargo regulations. The customer is obliged to inform Winter.pumpen as soon as a situation requiring approval exists or is suspected or at the very latest when placing the order. This applies in particular to traders who are required to report the end-use of critical goods deliveries to Winter.pumpen. The customer undertakes to be sufficiently and regularly informed of any matters requiring approval in order to ensure compliance.
3. Winter.pumpen may require the customer to submit a written declaration of end-use and request complete information on the end- use of the goods. These documents are also to constitute sufficient verification for the competent export control authority.
4. The customer assumes full liability towards Winter.pumpen for any damage and expenses incurred by Winter.pumpen as a result of the customer's culpable failure to comply with European and/or German export regulations or embargo regulations.

## **XI. Place of Performance, Place of Jurisdiction, Applicable Law, Miscellaneous**

1. Unless expressly agreed otherwise, the place of performance for contracts based on these conditions is Hilpoltstein.
2. In the event of a dispute arising out of or relating to this contract, the parties undertake to conduct mediation in accordance with the provisions of the IHK

Mediation Centre of the Nuremberg Chamber of Industry and Commerce for Middle Franconia before filing an action with an ordinary court of law (or arbitration court).

3. The place of jurisdiction is the local court responsible for Winter.pumpen place of business. However, Winter.pumpen is also entitled to sue the customer at any other locally competent court.
4. Should a provision of these conditions or individual parts thereof be or become invalid, the remaining provisions or the remaining part of the provision shall remain effective. In place of the ineffective provision or the ineffective part of the provision, the provision that is legally permissible and comes closest to what Winter.pumpen intended to regulate within the framework of these conditions.
5. If the customer has his place of business outside of the Federal Republic of Germany, the aforementioned regulations shall apply with the exclusive application of German law to the exclusion of the UN Sales Convention.