

## **General Terms and Conditions of Deutsche WindGuard GmbH**

### **§ 1 General information**

The following general terms and conditions apply to all business relations of Deutsche WindGuard GmbH and its subsidiaries (Deutsche WindGuard Consulting GmbH, Deutsche WindGuard Wind Tunnel Services GmbH, Deutsche WindGuard Offshore GmbH, Deutsche WindGuard Engineering GmbH, WindGuard North America, Inc., Deutsche WindGuard Systems GmbH, WindGuard Certification GmbH) with their respective business partners for all services, including those rendered within the scope of public tenders, even if their application has not been agreed upon separately.

Deutsche WindGuard GmbH (DWG) is an independent technical service and technical expert company. DWG operates impartial and neutral.

The assignment and all future performances of DWG are carried out exclusively under the application of the following provisions and supply and service descriptions, even if their application has not been agreed upon separately respectively explicitly.

DWG objects any diverging, conflicting or additional contract terms of the customer. They are not part of the contract, unless their application has explicitly been agreed upon in writing between the parties.

### **§ 2 Proviso**

Certificates and inspection records of DWG may be revoked at any time. This may for instance be the case when adjustments of the body of regulation to the state of technology make this necessary or when the customer does not comply with requirements or instructions given by DWG in due time.

### **§ 3 Scope and Accomplishment**

Type and scope of all performances of DWG comply in accordance with these contractual terms with the state of technology valid at the time the service is rendered.

To inspections and/or assessments and/or calibrations the regulations apply which are valid at the time of performance of the inspection and/or assessment and/or calibration.

Safety relevant changes to the regulations, which become effective after the date of the contract between DWG and its business partners, have to be taken into account.

The customer is obliged to establish all prerequisites to allow a quick and smooth provision of performance by DWG. DWG has to be granted unlimited access and insight in the requested degree.

DWG has to be provided by the customer in due time with all information, drawing documents etc. necessary for the execution of DWG's tasks and activities.

The customer is in particular obliged to render project support in terms of work discussions (which are to be individually agreed upon) and to the designation of responsible contact persons as well as to procure necessary dialogue partners.

The parties are in agreement that within the scope of inspections DWG does not owe a certain inspection result or success to the customer, but only the obliging inspection and documentation of the inspection results.

Inspections of wind energy plants conduce to the fulfilment of public law safety regulations and conditions. They do not replace maintenance and inspection of the wind energy plant by the operator, but serve as an additional measure of assessing the current technical condition according to the requirements of the assigned inspection scope.

Subcontractors of DWG warrant the compliance with relevant regulations of employers' liability insurance associations, relevant safety at work regulations as well as generally accepted guidelines and regulations.

#### § 4 Confidentiality

DWG ensures the confidential treatment of all received information, data, documents, and of the results.

#### § 5 Payment

Performances of DWG are to be paid according to the relevant tariffs or according to the price contained in the quotation. Additionally, DWG will charge any ancillary costs connected to the performances (e.g. travel costs, other expenses and, if applicable, VAT).

Performances which are additionally ordered by the customer are charged separately in agreement with the customer according to time and effort.

Any additional costs, which result from insufficient organisation on part of the customer, delays or repeated assessments/inspections/measurements which DWG is not responsible for are charged separately according to the relevant tariffs.

Additional performances will be calculated either on the basis of the hourly rates of the necessary staff, or – after the customer has agreed to fulfil the additional performances – on the basis of a quotation by DWG.

#### § 6 Invoice Due Date

Payments for all performances rendered by DWG are due without deduction within 14 days after date of invoice. In case of delay, DWG is eligible to claim for interests, to retain certificates and other documents and/or to defer the validity of certificates or to withdraw them.

All rendered performances and delivered goods remain the property of DWG until full payment is received.

The commercial as well as any other right of retention on the part of the customer is excluded. The offset against customer's counterclaims is also excluded, unless the counterclaim is undisputed or has been established by a final and binding court judgment.

#### § 7 Warranty

DWG warrants on all services a diligent and professional solution of the task according to today's state of technology and the relevant regulations and guidelines. DWG warrants on schedule processing, unless reasons beyond DWG's responsibility lead to delays. DWG warrants a neutral and independent processing and the unlimited usage of DWG's experience.

The customer is entitled to make use of the performances of the person in charge, the results and the emerging proprietary rights and rights of use for the contractually agreed purposes.

The warranty for measuring systems and met masts is limited to the warranty of the respective manufacturer of the components. Claims are to be made via DWG.

#### § 8 Place of Fulfillment – Place of Jurisdiction – Applicable Law

The registered place of business of DWG is the place of fulfillment for all obligations resulting from this assignment, unless agreed upon differently.

The court competent for the place of business of DWG is the competent Court for the assertion of claims for both parties as far as the requirements according to § 38 Code of Civil Procedure (Zivilprozessordnung) apply to the customer (merchant feature).

The contractual relationship and all privities there from are exclusively subject to the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods (CSIG).

#### § 9 Severability Clause

In the event that provisions of the contract between the customer and DWG or the General Terms and Conditions are or become completely or partly invalid, the effectiveness of the remaining provisions remains unaffected. In case of doubts about the interpretation of these General Terms and Conditions, the German version prevails.

Varel, June 2011