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## **General Terms and Conditions for delivery, work and service contracts of ABO Wind Group**

### **I Scope of Application**

- 1 The following terms and conditions shall apply to any business relation between customer and ABO Wind Group (herein after referred to as ABO Wind); notwithstanding any differing oral or written terms, special provisions or any alleged variations contained in customer orders, correspondence or documentation unless expressly agreed otherwise in writing by a duly authorised agent of ABO Wind.
- 2 These terms and conditions shall also apply to any future transactions between the parties. Your General Conditions of Purchase or similar conditions shall not apply. These conditions shall not apply for consumer contracts.
- 3 The following terms and conditions shall apply for any fields of activity offered by ABO Wind, in particular in the fields of
  - i) wind farm maintenance
  - ii) movement of goods
  - iii) movement of servicesThey shall accordingly apply for delivery, work and service contracts. Instead of the acceptance of delivered goods, in the case of work contracts, acceptance of the work shall apply and in the case of services, the acceptance of the service.
- 4 As far as the following conditions do not contain separate provisions for the individual fields of activity, the principles laid out above shall apply.
- 5 Additional or deviating agreements to these terms and conditions that are made between ABO Wind and customer for the implementation of a contract shall be laid down in writing in the contract.
- 6 Rights ABO Wind is entitled to in accordance with statutory requirements exceeding these terms and conditions shall not be affected by them.
- 7 The legally binding conclusion of an agreement with regard to the delivery of goods shall be subject to the suspensory condition of the German Federal Office for Economic Affairs and Export Control (BAFA), located in Frankfurter Straße 29 – 35 in 65760 Eschborn, Germany granting the necessary authorisation(s) for sale, delivery, transfer and/or export of the goods for their utilisation in the target country.

### **II Scope of performance**

- 1 Scanned order confirmations sent via e-mail shall be regarded as facsimiles. The individual offer to customer shall in any individual case be decisive to the scope of performance. The offer shall be with regard to the details provided by customer prior to preparation of the offer. Additional costs, which arise due to unforeseeable deviations from the order, shall be borne by the client.
- 2 ABO Wind will provide the technical documents with regard to the measures offered that are required in order to obtain the necessary approval or permit of the competent government

authority. Conditions that are enforced by the competent permit authority may only be met if ABO Wind is notified of them without undue delay. Delays or undue implementation of orders due to delayed notification of official conditions or requirements shall be at the customer's expense.

- 3 Any attached documents, such as illustrative designs, diagrams, drawings or similar documents as well as details with regard to metrics and teachings, weights, performance, performance requirements, operational costs and so on shall be indicative and shall only serve as orientation for you and shall only be binding as far as the documentation itself is designated as binding. In addition, the documents and specifications mentioned above shall apply subject to the applicable DIN tolerances.
- 4 ABO Wind shall be entitled to transfer the performance entirely or partially to subcontractor.
- 5 ABO Wind and, where applicable, subcontractors assigned by ABO Wind, shall fulfil the agreed performance only with staff acquainted with the respective wind farms and which is able to carry out the required measures independently. Thereby, any regulations with regard to safety at the workplace will be observed.

### **III Payment**

- 1 Statutory VAT is not included in the price and will be accounted for separately in the invoice at the rate of the applicable statutory rate on the date of the invoice.
- 2 Orders for which no explicit lump sums have been agreed upon shall be invoiced at the list prices applicable at ABO Wind on the date of the order (in the case of goods movement) or respectively in accordance with hourly wages and travel expenses (in the case of works and services), based on the service rates (rates for travels based on time and material). Travel time shall be invoiced as working hours. The employment of technical devices and ancillary equipment (e.g. working platform, cranes etc.) will, in such case, also be invoiced on a time and material basis according to the service rates.
- 3 In contractual relationships involving monthly invoices (in particular maintenance contracts), payment shall become due and payable at the time the invoice is issued.
- 4 In contractual relationships that do not involve monthly payments, for net order values over and above EUR 30,000.-, The remaining 70% of the order value shall be due and payable upon completion of the works. An advance payment amounting to 30% of the order value will be required and shall be due upon order confirmation against invoice, if not otherwise specified. The remaining 70% of the order value shall be due and payable upon completion of the works.
- 5 In addition, any payment due and payable shall be made to ABO Wind without deductions of whatsoever nature and within 14 days following receipt of invoice or request for payment, respectively.
- 6 If in the offer the risk of additional costs due to weather conditions is pointed out, this must always be reimbursed by the customer as the case occurs.
- 7 A conditional linkage of the customer's payments to insurance services as well as the offsetting of due payments by the customer with claims from other transactions are excluded.

**IV Late Payment**

- 1 With the lapse of the payment term, the contractual partner shall be in arrears. Any payment made during delay shall be made adding the statutory default interest rate applicable at the time. The claim to commercial maturity interest in accordance with §353 HGB (German Commercial Code) shall not be affected. ABO Wind reserves the right to claim further damages for delay.
- 2 Right of retention or set-off of the contractual partner shall only be admissible to the extent that such claim has either been finally adjudicated or is undisputed and is based on the same contractual relationship. Possible defect rights shall remain unaffected hereby.

**V Taxes and other fees**

- 1 Possible customs fees, levies, taxes and other public charges shall be born by the customer.

**VI Obligation to Co-operate**

- 1 The customer's co-operation is mandatory for the rendering of the service. The customer shall be responsible to provide adequate access to the wind turbine generators (axle load for up to 12 metric tons and oversize), when necessary for delivery and/or installation of the goods or rendering of the service.
- 2 Furthermore, all information and data necessary for rendering of the service in the possession of the customer shall be provided to ABO Wind as early as possible, however no later than 14 days prior to rendering of the service. Provision shall be a prerequisite for execution of the works.
- 3 Any delays and difficulties in connection therewith affecting ABO Wind's work processes shall therefore be for the customer's account.
- 4 Customer shall either directly or through representatives grant ABO Wind unobstructed access to the place where the works are to be carried out and to the wind turbine generator(s) as well as to any other technical installations. The customer shall provide ABO Wind with access to the control system of the wind turbine generator(s) (log-in etc.) where necessary for the rendering of the service.
- 5 Furthermore, the customer shall inform ABO Wind thoroughly about any modifications to the wind turbine generator(s) that have been implemented.

**VII Validity, Delivery Date and Delay**

- 1 Compliance with any agreed delivery or completion date is subject to the punctual and complete fulfilment of customer's obligations to co-operate, in particular with regard to the obligation to co-operate laid down under no. VI. Agreement of completion dates requires the written form. Completion dates are not binding, unless they have been expressly designated as binding. For adherence to the completion date it shall be sufficient if the works are in a state ready for acceptance.
- 2 Offers by ABO Wind shall essentially be subject to alteration and not binding.

- 3 An offer expressly designated by ABO Wind as being binding shall lapse 30 days after the date of the offer and may be changed or revoked by ABO Wind prior to receipt of the declaration of acceptance by the customer.
- 4 When rendering the offered service, ABO Wind will strive to minimize downtimes. However, any downtime due to the services rendered or due to measures recommended by ABO Wind shall be the customer's responsibility and will not be reimbursed by ABO Wind.

#### **VIII Retention of Title / Transfer of Risk**

- 1 Title to the delivered goods shall remain with ABO Wind until receipt of all payments agreed on in the contract with the customer.
- 2 The delivery items (conditional commodity) shall remain ABO Wind's property until all claims on the part of ABO Wind against the customer have been fulfilled.
- 3 For the duration of the retention of title, the customer shall not be entitled to sell, pledge, process or combine the delivered goods with other objects. Customer shall in addition be obliged to handle the items under right of retention carefully during the retention period and to adequately insure them at customer's own expense.
- 4 Replaced parts become property of ABO Wind. If an assessment of the replaced component is desired it is necessary to inform ABO Wind in writing when placing the order. The components in question can then be assessed by the client at a location designated by ABO Wind at an agreed date (maximum 4 weeks after removal).
- 5 In the event of breaches of duty by the customer, particularly default in payment, ABO Wind shall be entitled to withdraw from the contract regardless of any other rights it may be entitled to. In this case, the customer shall be obliged to return the received goods without undue delay. The legal provisions on the dispensability of setting deadlines shall remain unaffected.
- 6 Upon acceptance, customer shall assume the risk. In the case of movement of goods the risk shall pass to customer as soon as the goods are transmitted to the person carrying out the transportation.
- 7 If the start of performance of a service or the delivery of goods by ABO Wind or the operational acceptance or operational test of customer shall be delayed due to reasons in customer's control, or if customer delays acceptance, the risk shall pass to the customer from the beginning of delay. Customer shall from this point in time carry the risk of accidental loss of the goods.
- 8 Customer shall be obliged to accept the delivery and/or service as soon as he has been notified of its completion. If the delivery and/or service prove not to conform to contract, ABO Wind shall undertake to remedy the defect. This shall not apply if the defect is of no significant importance to the interests of the customer or is the result of circumstances in customer's control. If no significant defect exists, the customer shall not be entitled to refuse acceptance.
- 9 If acceptance is delayed through no fault of ABO Wind, or if no formal acceptance inspection takes place, acceptance shall be deemed to have taken place after a period of two weeks has elapsed since notification of the completion of the delivery and/or service.

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- 10 Should customer be in default of acceptance or culpably violate other obligations to cooperate, ABO Wind shall be entitled to demand compensation for losses incurred.

## **IX Confidentiality**

- 1 The parties mutually commit themselves to maintaining confidentiality with regard to all documents and all technical and commercial information received and to use them solely for the purpose of the contract. Should it become necessary to pass such documents and information on to third parties, the party concerned will request prior consent from the other party and ensure that the third party treats any documents and information provided as strictly confidential.
- 2 This stipulation shall not be effective where:
  - i) Information or documents are publicly known or have been made public by a third party, or
  - ii) The contractual party is required to disclose documents or information by law or other regulations, in court proceedings or at the request of an administrative body or regulatory authority, or where such documents or information are to be disclosed to a financial auditor entrusted with auditing the contractual partner's annual financial statements; or
  - iii) one contractual party has given the other contractual party prior written consent to disclose information or documents.
- 3 If information or documents have been disclosed, the contractual parties will inform each other thereon.

## **X Intellectual Property/ Data protection**

- 1 Where the services rendered include the delivery and/or installation of software, ABO Wind grants the customer the non-exclusive, non-transferable and limited license to use the software and the know-how at the site of the wind farm solely for use in connection with the delivery item or the work performed and solely in accordance with the terms hereof. The license does not include any right to modify the so licensed materials (i.e. software and/or know-how) or to sell, sublicense, license, rent, assign, transfer, deploy or otherwise make available the software or know-how, in whole or in part, to any third party, without ABO Wind's prior written consent.
- 2 The customer may, however, transfer and assign the license together with such delivery item or the work performed to a third party acquiring the wind turbine generator(s) or the wind farm.
- 3 As far as during implementation of the order expertises, inspection results, calculations or similar are prepared subject to copyright law, ABO Wind shall grant customer the simple, non transferable user right as far as is required in accordance with the contractual purpose assumed. Other rights shall expressly not be transferred, customer shall in particular not be entitled to change (process) expertises, inspection results, calculations and similar or to use them without its business operations in any way. ABO Wind, its employees and the experts assigned by it shall not disclose or process commercial or operational relations coming to their knowledge during the implementation of their task shall not use these in an unauthorised manner outside of the implementation of the order. In order to improve performance in the

best interest of customer, ABO Wind may use the data used anonymously for further assessment as well as file copies of written documents that have been provided to ABO Wind for examination and that are relevant to the implementation of the order to its records.

## **XI Warranty**

- 1 With regard to the rights of the contractual partner regarding defects of title and quality (including possible incorrect or underdelivery as well as improper assembly or defective assembly instructions) the statutory regulations shall apply unless otherwise agreed.
- 2 The defect rights of customer require that the delivery item, as far as no formal acceptance has taken place, shall be inspected without undue delay upon receipt and that defects shall be made known to ABO Wind without undue delay, however no later than two weeks after receipt of the goods in written form. Hidden defects shall be made known to ABO Wind without undue delay following their detection in written form. In case of failure to duly inspect and/or failure to make the defect known or late notification, liability of ABO Wind for the defect not made known shall be excluded. If customer shall notify of a defect, inspection of the delivery item and implementation of repair works or respectively installation of replacement parts shall not be deemed as admission of ABO Wind's responsibility.
- 3 ABO Wind shall be entitled to make the owed remedy dependent on the fact that the contractual partner has made any payments due. Contractual partner shall, however, be entitled to retain a reasonable part of the price with regard to the defect, however no higher than 20% of the order value.
- 4 Warranty claims with regard to works performed or replaced parts shall be limited to a warranty and defect liability period of 12 months starting from the date of completion of the work, unless a longer period of time is statutorily required or a longer limitation period has been laid down in the offer.
- 5 Any warranty claim shall be made known to ABO Wind up to the end of the warranty and defect liability period in writing. ABO Wind will fulfil the obligation to remedy defects during this period exclusively by rectification or additional delivery, at the sole discretion of ABO Wind. Customer shall not be entitled to assign a replacement contractor in order to carry out the works.

## **XII Limitation of Liability**

- 1 ABO Wind shall be liable without limitation:
  - (1) upon breach of warranty
  - (2) due to fraudulent intent or malice
  - (3) due to grossly negligent misconduct of its owners, organs, (CEOs, managers and supervisors) or executives;
  - (4) due to mandatory product liability; or
  - (5) due to culpable harm to body, life and health.
- 2 ABO Wind's liability in the case of plain negligence shall be limited to such damages which could have reasonably been expected and foreseen when entering into this order and shall

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under no circumstance exceed the double amount of the order value or a maximum amount of EUR 100,000.- per occurrence, whichever is the lower.

- 3 ABO Wind shall not be liable for indirect damage or consequential damage such as loss of production, turnover or profit.

### **XIII Force Majeure**

- 1 A failure to perform obligations by either party shall not constitute a default by such party, or give rise to any claim for damages against it, if, and to the extent that, such failure of performance is caused by force majeure. If a party is unable to perform its duties under this agreement due to force majeure, the other party shall be discharged from its obligations hereunder. Such force majeure events include, but are not be limited to, acts of God, expropriation or confiscation of facilities, acts of war, rebellion, insurrections or sabotage, riot or civil war, fires, floods, earthquakes or other similar natural catastrophes, explosions, riots, lockouts, boycotts, strikes (excluding strikes of contractor's employees), unavoidable delays in delivery or transportation (including unusual or unforeseeable ocean conditions), data communication or supply of electricity, terrorism, cyber attacks, unavoidable casualties, lightning or unusual inclement weather as well as wind at the project site at speeds which exceed the levels required for safe and orderly maintenance, service and / or repair work.
- 2 The party affected by force majeure shall give notice thereof to the other party in writing, promptly upon detection of the impediment constituting force majeure and its effect. If such force majeure persists over a period of more than 3 months after the abovementioned notice, the party not affected by force majeure may terminate the agreement by written notice to be sent to the other party.

### **XIV Indemnification**

- 1 Parties shall indemnify, hold harmless and defend each other, their affiliates and their respective officers, directors, employees, agents, contractors, subcontractors, invitees, successors, representatives and permitted assigns from and against any and all claims, liabilities, costs, losses, damages and expenses, including reasonable attorney and expert fees and disbursements actually incurred. Exempt shall be:
  - i) Damage to property of unaffiliated third parties or injury to, or death of, any person; and;
  - ii) Any penalties or fines imposed by governmental authorities, in any such case to the extent directly caused by the gross negligence or wilful misconduct of ABO Wind and/or its officers, employees, directors, agents or contractors, and arising out of, or connected with, service provider's performance under this agreement, service provider's exercise of rights under this agreement or service provider's breach of this agreement.

### **XV Applicable Law**

- 1 For any legal relationships between ABO Wind and its contractual partner, the laws of the Federal Republic of Germany shall apply, excluding international uniform law, in particular UN sales-law.
- 2 Place of jurisdiction for any disputes directly or indirectly arising from the contractual relationship shall be the company headquarters of ABO Wind in Wiesbaden, Germany.

ABO Wind shall however be entitled to file a suit at the place of jurisdiction of the contractual partner.

**XVI Severability**

- 1 In the event that individual provisions of these stipulations should become ineffective or void or should the Terms and Conditions be found to contain a gap, or individual regulations shall be or become unenforceable, the other provisions shall not be affected. Both parties commit themselves to replace the invalid or unenforceable provision with a valid provision which comes as close as possible to the economic purpose. The same shall apply for contractual gaps.

**XVII Right of Withdrawal**

- 1 ABO Wind may withdraw from orders in the case of force majeure or if other factors outside of its control render the execution of the order more difficult, intolerable or impossible.
- 2 ABO Wind may withdraw from orders if there are indications of the insolvency of the customer or if cessation of payment has occurred.
- 3 The customer may withdraw from orders if ABO Wind has failed twice in the event of supplementary performance of defects or has culpably exceeded the delivery period by more than four weeks.

# Service Rates

ABO Wind Group

Valid from 01st June 2019  
for all services



## Hourly rates

	6:00-18:00 h	18:00-22:00 h	22:00-06:00 h Saturday	Sunday / Public Holiday
Service technician/commercial employee	68,00 €	85,00 €	102,00 €	136,00 €
Lead/Master technician	97,30 €	122,00 €	146,00 €	195,00 €
Engineer/BBA/MBA/team leader	120,00 €	150,00 €	180,00 €	240,00 €

Overtime allowances: 18:00-22:00h 25%, 22:00-06:00h, Saturday 50%, Sunday and public holiday 100%.

## Milage

Passenger car: 0,78€/km  
Service van: 1,20€/km

## Allowances, travel time, accommodation and transport

In addition to the hourly rates for work, ABO Wind will settle travel time at the above mentioned hourly rates. Other travel expenses such as accommodation and transport expenses are charged in accordance with the actual expense with 15% handling surcharge.