

General Terms and Conditions (GTC)¹
Deutsche Windtechnik X-Service GmbH
(Status May 2020)

Sec. 1
General – Scope of application

- (1) These General Terms and Conditions apply to all future and current services and deliveries of Deutsche Windtechnik Service GmbH & Co. KG and Deutsche Windtechnik X-Service GmbH (hereinafter “we”) vis-à-vis customers.
- (2) Deviating, contradictory, or additional general terms and conditions of the customer shall not become part of the contract even if they are known, unless applicability of such is expressly approved in writing.
- (3) These General Terms and Conditions apply only vis-à-vis entrepreneurs in terms of Sec. 310 para. 1 German Civil Code (BGB).
- (4) We are authorized to utilize third parties for the fulfillment of our contractual obligations; this applies in particular also to affiliated companies of the DWT group.

Sec. 2
Conclusion of the agreement

- (1) The customer’s order is a binding offer. It is accepted by us upon dispatch of the order confirmation.
- (2) Unless otherwise specified in the offer, we are authorized to accept an offer within 4 weeks in written form or in electronic form (by email or fax). Email correspondence is requested. The offer is void if it is not accepted within 4 weeks.

Sec. 3
Prices and payment terms

- (1) Performances of service staff shall be invoiced based on incurred working time, incurred travel costs, accommodation costs in the individual case, and consumed materials.
- (2) The working time proposed in the offer or the order confirmation is an estimate, the actual incurred number of working hours will be invoiced.
- (3) The working time of the service staff also includes preparation and follow-up.
- (4) Waiting times that are not within the scope responsibility of us or companies commissioned by us (e.g. weather conditions, inadequate access/crane sides; wheels, bearings, and shafts that may despite all precautions during dismantling incur striae or wear marks; unforeseen technical problems) are to be borne by the customer and may be invoiced separately.
- (5) The prices for consumed parts, material, and special services, as well as prices for labor, the travel and transport costs must be listed separately in the calculation of services. Insofar as the services are listed separately in the offer or the order confirmation, reference to such suffices, whereby only deviations in the scope of delivery must be listed separately.
- (6) Statutory sales tax is not included in our prices; it is listed separately in the invoice at the statutory rate on the day of invoicing.
- (7) Unless specified otherwise in the order confirmation, the purchase price is due and payable, without deductions, within 14 calendar days as of the invoice date. Default interest in the amount of 9% p.a. above the relevant base interest rate will be charged after the due date.
- (8) The customer is obligated to audit the accuracy of our invoice within the deadline listed under paragraph 7. Objections to the invoice are excluded after that time.
- (9) The customer can offset only against such claims that are undisputed or legally ascertained.

Sec. 4
Customer’s obligation to participate

- (1) The customer is obligated to support our service staff or the service staff of companies commissioned by us in the execution of the negotiated services to the best of its abilities and at its own cost. Insofar as necessary for the performance of the order, staff must be provided with assistants, resources, technical documentation, as well as electricity including the necessary connections, and all other media, free of charge.
- (2) The customer is obligated to take the measures necessary to protect people and equipment at the service site. The customer is also obligated to inform our service staff or the service staff of the companies commissioned by us of any existing special safety regulations insofar as such are of significance for the service staff.
- (3) The customer is obligated to appoint a contact person and make such available for the services to be provided at the customer’s location; this contact person must be responsible, competent, and authorized to handle all questions arising within the scope of the completion of the order.

Sec. 5
Time of service provision

- (1) Compliance with negotiated deadlines for provision of the service requires the timely receipt of all relevant records as well as compliance with the payment terms and other obligations of the customer.
- (2) If a specific date for the provision of the service is not negotiated, we will inform the customer of the date at the latest 10 days prior to providing the service. Insofar as the customer does not wish for the work to be performed at the stated date, the customer is obligated to notify us accordingly at least 5 days prior to the date announced for performance of the work. If such notification is not provided or not provided in a timely manner, the full negotiated price shall be due and payable.
- (3) If performance of our work is delayed due to force majeure, e.g. unannounced power outages, lack of official permits (without any fault on our part) for heavy duty transports, strike, lockouts, official orders, accidents, or inclement weather, the period for provision of the service will be extended accordingly.

- (4) If the customer incurs verifiable damage as a consequence of our delay, the customer is authorized to demand lump-sum compensation for the delay. For each full week of delay, this amounts to 0.5%, however, in total no more than 5% of the price for the service for the part for which we are obligated to provide service and which cannot be used in a timely manner due to the delay. Further claims due to delay are excluded; this does not apply in case of intent or personal damages.

- (5) If the customer defaults in acceptance or culpably violates other participation obligations, we are authorized to demand compensation for the damage incurred in this regard, including possible additional expenses. Further claims or rights are reserved.

Sec. 6
Acceptance

- (1) The customer is obligated to accept the service, whether in the form of repair, maintenance, startup operation, or other negotiated service provided by us. If the service is found to be noncontractual, we are obligated to rectify the defect pursuant to Sec. 8, insofar as this is possible for the relevant service. This does not apply insofar as the defect is insignificant for the customer’s interests or is based on a circumstance for which the customer is responsible. If an insignificant defect exists, the customer is not authorized to refuse acceptance.
- (2) If acceptance is delayed without any fault on our part, acceptance is deemed to have taken place after the expiration of 2 weeks after notification of the end of the service.
- (3) Our liability for obvious defects is void upon acceptance, unless the customer has reserved the right to assert a specific defect.

Sec. 7
Retention of ownership-transfer of ownership

- (1) Until full payment of the negotiated order total, we reserve the ownership to the purchase object or all consumed accessories, replacement, and exchange parts until receipt of all payments under the relevant contractual relationship. In case of breaches of contract on the side of the buyer, including payment default, we are authorized to take back the goods.
- (2) Ownership to disassembled old / defective parts is transferred to us; such parts shall be stored for 3 weeks as of the time of disassembly for possible inspections / diagnostics. After the expiration of this deadline, the old / defective parts will be recycled or scrapped.

Sec. 8
Warranty rights

- (1) The customer’s proper fulfillment of all inspection and reprimand obligations owed under Sec. 377 German Commercial Code (HGB) is prerequisite for all of the customer’s guarantee rights.
- (2) In case of justified complaints, we are, at our choice, authorized to supplementary performance in the form of rectification of defect or delivery of new, defect free goods.
- (3) If supplementary performance fails, the customer, at its choice, is authorized to request rescission of contract or reduction. Pursuant to Sec. 440 clause 2 BGB, repair is deemed to have failed after the second attempt if nothing else follows in particular from the type of the object or the defect or the other circumstances.
- (4) The guarantee does not include natural wear or damages arising after transfer of risks as a consequence of incorrect or negligent handling, excessive wear, unsuitable equipment, or special external influences. The guarantee does not include wear parts, e.g. brake pads, seals, coolants and lubricants, filters, illuminants, batteries, or rubber dampers subject to functional wear, unless such is caused by production or material defects. If the customer or third parties perform improper modifications or repair work, this and the resulting consequences are not covered by the guaranty.
- (5) Insignificant deviations from the negotiated quality or insignificant impairments of the usability do not constitute defects of the delivered object.
- (6) The customer’s guarantee claims lapse after 12 months as of acceptance.

Sec. 9
Liability

- (1) We are liable in accordance with statutory provisions insofar as the customer asserts claims for damages that are based on our intent or gross negligence. In cases of simple negligence, our liability is limited to the foreseeable damages typical for this type of contract.
- (2) Liability due to culpable violation of life, body, or limb remains unaffected; this also applies to the statutory liability under the product liability act.
- (3) Liability is excluded unless otherwise specified above. This applies in particular to financial losses, consequential damages, and lost profits.

Sec. 10
Data protection and confidentiality

- (1) Within the scope of our cooperation we may have access to personal data provided by you. Upon placement of the order, you declare your consent that we may use the personal data provided by you for the fulfillment of your contract or the performance of pre-contractual measures as follows:
 - Dispatching offers, order confirmations, invoices, and adjusted invoices in print or electronic format is permissible
 - Dispatching information concerning all topics necessary for the ongoing business process by postal mail, telephone, or email
 - Data of employees involved in the business process may be contacted for these purposes and archived until withdrawal
 - Personal data may be forwarded to third parties insofar as required by the contractual relationship (Art. 6 (1) Clause 1 lit. B GDPR).

- (2) We will use personal data exclusively for the contractually specified purpose.
- (3) We are obligated to take the measures for processing security and for reaching a level of data protection appropriate to the risk and to verify this to the customer upon request as specified by Art. 32 GDPR. We shall support the customer upon the customer's first request in the fulfillment of data subject rights pursuant to Art. 12 through 23 GDPR as well as the obligations pursuant to Art. 32 through 36 GDPR.
- (4) We declare our consent that the customer, by appointment, itself or through third parties commissioned by it, is generally authorized to monitor compliance with the data protection and data security regulations.
- (5) We are obligated to maintain confidentiality in the contractual processing of the customer's personal data.
- (6) We assure that all persons involved in the processing of personal data are obligated to maintain confidentiality and protect privacy during the time of their activity and after the termination of the employment in a suitable manner.
- (7) Pursuant to Art. 7 (3) GDPR, the customer is authorized to withdraw consent.
- (8) The customer has a right to object pursuant to Art. 21 GDPR.

Sec. 11
Closing provisions

- (1) The customer is not entitled to assign any claims against us (except claims for payment) to third parties (assignment prohibition).
- (2) Modifications, supplements, amendments, and ancillary agreements to the agreement and these General Terms and Conditions require the written form.
- (3) In the event that a provision of these GTC should be or become invalid or in the event of a gap, this does not affect the validity of the remaining provisions. In this case, the parties are obligated to negotiate or reach the intended purpose by negotiating another regulation.
- (4) German law applies to the legal relations of the parties between them, excluding the UN Convention on Contracts for the International Sale of Goods.
- (4) Place of jurisdiction is Bremen, Germany.

¹ The English Version is for translation purposes only, the German Version shall always prevail.