

End-user Software License Agreement (Single User) regarding WAsP, WEng and WAT

Licensee agrees to be bound by the terms of this Agreement, effective as of the date of Licensor's distribution of the license keys to the Software Package by e-mail to the Licensee.

1. Definitions

1.1 The following definitions apply:

"Agreement" shall mean this single-user software end-user license agreement.

"Documentation" shall mean the help files included within the Software Package

"Software Package" shall mean the software programs named WAsP, WAsP Engineering and Windfarm Assessment Tool:

WAsP (Wind Atlas Analysis and Application Program) is the industry-standard PC software for wind resource assessment, siting and energy yield calculations for wind turbines and wind farms.

WAsP Engineering is the industry-standard PC software for calculation of wind conditions, which are relevant for fatigue loads, extreme loads and siting of wind turbines and wind farms.

The Windfarm Assessment Tool (WAT) is a PC software for site suitability assessment of wind turbines and wind farms.

"Licensee" shall mean the Company on the behalf of which the registered user accepts the terms of this Agreement.

"Licensor" shall mean Technical University of Denmark, Department of Wind Energy, Anker Engelunds Vej 1, DK-2800 Kgs. Lyngby, Denmark, Business Registration No. 30 06 09 46.

Licensee and Licensor are each hereinafter individually referred to as "**Party**" and jointly as "**Parties**".

2. Grant of license

2.1 Licensor hereby grants to Licensee a single-user, non-exclusive, non-transferable, non-assignable end-user license to use the Software Package and Documentation.

2.2 The license granted according to Section 2.1 is a single-user license with the following restrictions:

- The Software Package shall only be installed and used on one single computer owned by Licensee and may only be used by one person at a time, on condition that such person is either an employee of Licensee, or an in-house consultant, and that such person is declared as "registered user" to Licensor.
- The Software Package may not be made available over a network where it could be used by multiple computers at the same time.

2.3 Licensee shall at all times adhere strictly to the terms of this Agreement.

- 2.4 The Licensee shall inform the Licensor of any infringements of the Software Package, which the Licensee suspects or ascertains. The Licensee shall to a reasonable extent assist the Licensor with technical advice and other non-financial assistance, evidence and documentation concerning infringements.
- 2.5 Licensee shall not disclose or copy the Software Package/Documentation to any third party, sublicense the Software Package/Documentation to third parties or allow third parties use of or access to the Software Package/Documentation.
- 2.6 If the registered user, cf. Section 2.2 above, is an in-house consultant, Licensee has the responsibility for such in-house consultant's observance of the obligations laid down in this Agreement.
- 2.7 Licensee agrees that the Software Package and Documentation is the Licensor's Confidential Information and shall treat and handle confidential information in accordance with the provisions of Section 9 below.
- 2.8 Licensee shall not be entitled to reverse engineer the Software Package/Documentation, de-compile or in any other way create derivative works or modified versions of the Software Package/Documentation.
- 2.9 Licensee shall maintain reasonable records indicating the location of the installation or the individual user of the Software Package.

3. Support and updates

- 3.1 Licensor will assist the registered user of Licensee with the initial installation of the Software Package by telephone or e-mail. Licensor will respond to all support calls as soon as reasonably possible. All support calls or e-mails have to be directed to the following contact point: wassupport@dtu.dk.
- 3.2 Licensor shall inform and make available to Licensee all new releases, build codes, fixes, patches or workarounds to the Software Package, as well as new versions/updates of Documentation that Licensor decide to make available at the date of release of such.
- 3.3 Additional support to that of Section 3.1, onsite support etc. is subject to separate agreement between the Parties concerning such work.

4. Term of License

- 4.1 The license is granted for an initial license period of 12 months. However, the license will upon expiry of a 12 month license period automatically renew for additional 12 month periods until this Agreement is terminated by either Party.
- 4.2 The initial 12 month license period starts on the date of receipt of license keys from Licensor, cf. Section 6.1.
- 4.3 The Licensee may terminate this Agreement with four (4) weeks' prior written notice (sent to wasp@dtu.dk) to the end of a 12 month licensing period, cf. Section 4.1.
- 4.4 The Licensor may terminate this Agreement with 6 months' notice. If this Agreement is terminated by the Licensor, a proportional share of any prepaid license fee for a period beyond the termination date will be returned by the Licensor to the Licensee.

- 4.5 The Parties agree that the terms and conditions set forth in Sections 7-13 of this Agreement shall survive the termination of this Agreement indefinitely.
- 4.6 Upon termination of this Agreement for any reason whatsoever, Licensee shall immediately cease any further use of the Software Package/Documentation and shall destroy all existing copies of the Software Package/Documentation in its possession and confirm this by sending a written declaration to the Licensor.

5. License fee

- 5.1 In consideration for the license granted according to this Agreement, Licensee shall pay to Licensor an annual license fee. The amount of the annual license fee applicable at any given time shall be available on www.wasp.dk. The license fee, which is ex. VAT, is paid on the first day of every licensing period of 12 months. The license fee includes the support and updates described in Section 3.
- 5.2 The first annual license fee shall be paid upon purchase of the license to the Software Package, by the payment method chosen by Licensor, and shall fall due on the Effective Date. If the payment method is by receipt of invoice, the license fee shall be paid by Licensee upon receipt of an invoice from Licensor.
- 5.3 Licensor is permitted to issue invoices for subsequent license fees up to 6 weeks prior to the commencement of a new 12 month licensing period, and invoices will be payable to Licensor with 30 days payment notice.
- 5.4 All invoices to Licensee will be sent via e-mail to the e-mail address of the registered user of Licensee, unless Licensee informs Licensor of another e-mail address.

6. Obligations of Licensor

- 6.1 The Licensor shall forward license keys to Licensee as an attachment to an e-mail, within fourteen (14) calendar days of receipt of the license fee. Unless otherwise informed by Licensee, Licensor will send such e-mail to the e-mail address of the registered user of Licensee.

7. Ownership of Intellectual Property Rights

- 7.1 This Agreement does not imply any transfer of intellectual property rights pertaining to the Software Package/Documentation. Thus, Licensee acknowledges that Licensor holds all copyright and any other rights, including intellectual property rights and ownership rights to the Software Package/Documentation and all copies thereof.
- 7.2 The Software Package/Documentation is protected by the Danish Copyright Act and international treaties and conventions on the protection of copyright and other relevant legislation on intellectual property rights and copyright. Section 36, subsection 1, no. 1, of the Danish Copyright Act does not apply to this Agreement, and thus Licensee is not allowed to make copies of or make any changes to the Software Package.
- 7.3 Licensee is not permitted to change or remove any marks or notices regarding copyright, trademarks or the like on Software Package or Documentation or copies thereof.

8. Disclaimer of Liability

- 8.1 The Software Package and Documentation is provided “AS IS”. Any express or implied warranties, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose are disclaimed. The Software Package and Documentation is provided without guarantee or warranty in any way.
- 8.2 Except in the event that damages are attributable to intentional acts or gross negligence on the part of Licensor, Licensor cannot be held liable for any loss or damage whatsoever caused by the Software Package, the Documentation or Licensor’s support or which may arise in connection with Licensee’s use of the Software Package/Documentation, including, but not limited to the potential infringement of any third party intellectual property rights by the Software Package or Documentation.
- 8.3 Except for breach of the duty of confidentiality, the Parties shall in no event be liable to each other for any anticipated or indirect loss or damage, including, but not limited to, loss of profits or future business; any damage to reputation or goodwill; any damage, loss, costs or expenses of an indirect, exemplary, consequential, or economic nature, caused by, arising from, associated with or attributable to the activities or obligations of the Parties under this Agreement.
- 8.4 The Parties' total liability for damages due to breach shall be limited to EUR 45,000 except in case of gross negligence, intentional acts or omissions, or breach of confidentiality.
- 8.5 Licensee shall indemnify and hold harmless Licensor from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including attorney and expert witness fees), arising from or connected with Licensee’s use of the Software Package or Documentation except as provided in this Agreement including, but not limited to, any claims from its sub-licensees (if such is permitted under the license).

9. Confidentiality

- 9.1 The Software Package and Documentation shall be regarded as confidential information. Licensee shall not disclose the Software Package or Documentation or any other confidential information disclosed by or received from Licensor to any third party without the prior written approval from Licensor.
- 9.2 The duty of confidentiality pursuant to this Section 9 shall survive the termination of this Agreement. Termination of this Agreement shall not release Licensee from the obligations set out in this Section, regardless of the reason for its termination.

10. Material Breach

- 10.1 If a Party has breached this Agreement, and such breach is considered material according to Danish law, the non-breaching Party may terminate this Agreement. However, before such termination the non-breaching Party shall notify the Party in material breach hereof and request that such material breach is remedied within 30 calendar days. If the breach has not been remedied within the above time period or remedy is impossible, the non-breaching Party may terminate this Agreement without further notice.

11. Assignment

11.1 Licensee shall not be entitled to assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Licensor.

12. Severability

12.1 If any section of this Agreement is deemed unenforceable or invalid for any reason, the remaining parts of this Agreement shall not be affected hereby. The Parties shall enter into negotiations for the purpose of substituting such section with a corresponding valid and enforceable wording, if possible.

13. Settlement of disputes

13.1 This Agreement shall be governed by the laws of Denmark. This applies whether or not international private law and choice of law rules may lead to the application of another country's laws.

13.2 Should a dispute arise between the Parties in connection with this Agreement, including its interpretation and use, the Parties shall enter into negotiations in good faith in order to solve the dispute.

13.3 Have the Parties been unsuccessful in solving the dispute within 30 calendar days after initiation of negotiations hereof, the Parties may agree to refer the dispute to mediation at Mediationsinstituttet (www.mediationsinstituttet.dk) according to its rules.

13.4 If the Parties do not agree to mediation within 7 calendar days after expiry of the deadline set forth in Section 13.3, or has no solution to the dispute been reached 30 calendar days after commencement of mediation with Mediationsinstituttet, the dispute shall be settled by the District Court of Lyngby, Denmark, as the court of first instance.

END OF LICENSE TERMS