

Terms and Conditions of Purchase of OPRA Turbines

rev. 22 January 2014

1 Definitions

In these Terms and Conditions of Purchase of OPRA (the "**Conditions of Purchase**") the terms listed below have the following meaning:

- OPRA:** OPRA Turbines B.V, OPRA Turbines International B.V and its subsidiaries; private limited companies; situated in Hengelo, the Netherlands;
- Contractor:** any natural person with whom or legal entity with which OPRA concludes an Agreement;
- Order:** an Order given to the Contractor by OPRA pertaining to the acceptance of the offer made by the Contractor in respect of the Performance;
- Agreement:** any agreement concluded between OPRA and the Contractor concerning the purchase by OPRA of the Performance, as well as any amendment or addition thereto and all acts (including legal acts) for the conclusion or in the performance of that agreement;
- Performance:** the goods supplied or to be supplied by the Contractor and the rights of use of those goods, and/or services to be provided and work to be performed by the Contractor for the benefit of OPRA;
- Specifications:** the technical and other specifications and/or descriptions of the Performance, as recorded in the Agreement, in documents expressly referred to in this context therein, or in other documents expressly signed for approval by the parties.
- Representatives:** all employees of OPRA or persons employed by any of the companies of the group of which OPRA forms part, or third parties that perform Services for the benefit of the Purchaser.

2 Applicability

- 2.1 These Conditions of Purchase apply to and form an integral part of all Agreements.
- 2.2 OPRA expressly rejects the applicability of any general or specific terms and conditions of the Contractor.

3 Quotations, Orders and the conclusion of Agreements

- 3.1 A request for a quotation will not be binding on OPRA but will serve only as an invitation to the Contractor to submit a quotation. The quotation will remain valid for a period of sixty calendar days. Any costs related to the submission of a quotation will not be reimbursed by OPRA.
- 3.2 In the event of obvious errors in or conflicts between parts of the request for a quotation by OPRA, the Contractor must consult with OPRA before submitting a quotation.
- 3.3 Any documentation provided to the Contractor by OPRA before a quotation is submitted must be returned to OPRA free of charge if no Agreement is concluded.
- 3.4 If the Contractor has not yet commenced the performance of the Agreement, OPRA may at any time cancel the Agreement, in which case OPRA will reimburse all the costs incurred by the Contractor, insofar as reasonable.
- 3.5 If the Contractor commences activities without having received an Order, it will do so for its own account and risk.
- 3.6 An Agreement will have been concluded if OPRA places an Order with the Contractor and the Contractor confirms this Order to the Contractor by returning the acceptance copy of the Order or commences its performance, whichever occurs first. The contract documents shall in case of conflict be given the following order of precedence:
- the Order;
 - Appendices, as listed in the Order;
 - these Conditions;
 - the Contractor's Technical Specification.

4 Amendments and Additions

- 4.1 Amendments and additions to any provision of an Agreement and/or these Conditions of Purchase will be valid only if agreed between the parties in writing. Such amendment and/or addition will apply only to the Agreement in question.
- 4.2 In the event of errors in or conflicts between parts of the Order, the Contractor must consult with OPRA before filling the Order, so the Order can be amended if necessary.
- 4.3 OPRA will have the right to demand contract variations. Contract variations will be permitted only in case OPRA has confirmed such variations in writing. In the event of variations resulting in less work, the price for the Performance will be reduced pro rata.

5 Materials, parts, certificates, drawings, etc. made available by OPRA

- 5.1 Materials, parts, certificates, drawings, etc. made available to the Contractor by OPRA will remain OPRA's property and must be returned at the end of the Agreement. These materials will be for the Contractor's risk until it has been returned to OPRA.
- 5.2 The Contractor must insure all property that it receives from OPRA in the context of the Agreement for its own account for OPRA's benefit on the customary conditions against all damage resulting from full or partial loss of or damage to such property.
- 5.3 The other costs related to property made available by OPRA (such as transport, storage and installation) will be for the Contractor's account.
- 5.4 The Contractor must verify upon receipt of the property referred to in this Article whether it is in conformity with the Specifications described in the Order.

6 Price

- 6.1 The agreed price is fixed for the term of the Agreement and includes all costs related to the fulfilment of the Contractor's obligations, including:
- standard packaging;
 - transport, transport insurance, import duties, customs, value added taxes, or other charges which the Dutch authorities may levy on the deliveries;
 - the necessary drawings and other preparatory work;
 - any permits and rights of use;
 - installation and instruction; and
 - any travel and accommodation expenses.
- 6.2 Any charges not included in the price of the Performance will be rejected by OPRA unless otherwise agreed.

7 Payment

- 7.1 Upon full and correct performance of the Agreement, OPRA will pay the amount invoiced within sixty (60) days of the invoice date. Any statutory interest payable by OPRA will be the statutory interest referred to in Article 119a, Book VI, of the Dutch Civil Code.
- 7.2 OPRA may at any time set off any claims that it has against the Contractor against any amounts that OPRA owes the Contractor.
- 7.3 After informing the Contractor accordingly, OPRA will have the right to make payment to third parties on the Contractor's behalf, for instance to subcontractors and suppliers engaged by the Contractor in the performance of the Agreement, if the progress of the work would be jeopardised absent such payment. Such payment will be deducted from any amount that OPRA owes the Contractor under the Agreement.
- 7.4 Payment by OPRA will in no event mean that it renounces any right whatsoever.

8 Quality and description of the Performance

- The Performance must:
- be in accordance with the provisions of the Agreement (including the Specifications) in terms of quality, quantity, dimensions and description;
 - be complete and suitable for the purpose for which it is intended;
 - be free from any charges, restrictions and third-party claims, including restrictions arising from patents, copyrights or other intellectual property rights, with the exception of any charges, restrictions and claims that OPRA has expressly accepted in writing;
 - contain parts that will remain available for a period of at least ten years after delivery;
 - be provided by skilled staff, using new materials;
 - be accompanied by the necessary instructions to OPRA and/or its staff, to enable OPRA and/or its staff to use the Performance independently;
 - include all the permits required for the performance of the Agreement;
 - include the drawings and other preparatory work required for the performance of the Agreement;
 - include the installation and/or fitting and/or connection and/or such preparation for use that the Performance functions in accordance with the Specifications; and
 - in all respects meet all the applicable statutory requirements and regulations regarding its design, composition and quality and the manner and place of delivery.

9 Tests, trials and inspections

- 9.1 OPRA, OPRA's end client or its authorized representative may at any time perform or commission tests, trials and/or inspections of the Performance, including all developments and production activities of the Performance. This right shall include the inspection of all sub-suppliers, registrations, production areas or other conditions, which affect the main order wholly or partly. The Contractor must provide the assistance and facilities required for that purpose within reasonable limits.

9.2 If interim tests, trials and/or inspections have been agreed, the Contractor must inform OPRA of the proposed time thereof in such a timely manner that, if it so wishes, OPRA itself and/or representatives of OPRA can be present.

9.3 All the costs arising from the performance of paragraphs 1 and 2 of this Article will be for the Contractor's account, with the exception of OPRA's staff costs, unless otherwise agreed.

9.4 If the performance of paragraph 1 or 2 of this Article cannot take place at the proposed time or must be reperformed due to actions of the Contractor, all the costs reasonably incurred will be for the Contractor's account, including OPRA's staff costs.

9.5 If the Performance is rejected, OPRA will immediately inform the Contractor accordingly, stating the reasons. The Contractor must then improve or replace the rejected Performance for its own account within a term stipulated by OPRA.

9.6 Contractor shall prior to delivery perform any inspection required to verify that the goods are in accordance with specifications.

9.7 Interim tests, trials and inspections or the absence thereof will not constitute acceptance by OPRA.

10 Storage on behalf of OPRA

10.1 If the Performance is ready for delivery but OPRA is not reasonably able to take delivery at the agreed time, the Contractor will keep the Performance in its possession, secure it, and take all reasonable measures to prevent loss of quality until it has been delivered.

11 Passing of title and risk; Property

11.1 Title to the Performance and parts of the Performance, such as materials, will pass to OPRA upon their acceptance by OPRA as referred to in Article 13.1. They will remain at the Contractor's risk, however, until the moment of acceptance by OPRA.

11.2 Contrary to the provisions of Article 11.1, title to the Performance will pass to OPRA in the case referred to in Article 10 the moment the Performance is stored on behalf of OPRA.

11.3 Goods that OPRA hands over to the Contractor for repair, processing or handling will be at the Contractor's risk for the duration of such repair, handling or processing.

11.4 If full or partial advance payment has been agreed on contrary to the provisions of Article 7, title to all materials, raw materials and semi-manufactured products used by the Contractor in the performance of the Agreements or intended for that purpose will pass to OPRA on the grounds of the advance payment made by it, up to the amount of the advance payment. The Contractor must hold such materials, raw materials and/or semi-manufactured products for OPRA free from charges and duties, and must identify, mark and store them separately on behalf of OPRA and provide sufficient protection for such materials against damage, loss or theft.

11.5 The provisions of the last sentence of Article 11.1 will continue to apply in full after transfer of title pursuant to Article 11.2 or Article 11.4.

12 Delivery of the Performance

12.1 The Contractor must deliver the entire Performance carriage paid, unless otherwise agreed.

12.2 The delivery date and the delivery period will be of the essence. As soon as the Contractor knows or expects that the Performance cannot be delivered in time, it must immediately inform OPRA accordingly in writing, stating the reasons for such late delivery.

12.3 If all or part of the Performance cannot be delivered on the agreed date or within the agreed delivery period, OPRA will have the right, without any notice of default or judicial intervention being required, to dissolve the Agreement in respect of the Performance that has not been delivered, as well as in respect of the Performance that has already been delivered under the Agreement but that can no longer be used efficiently in OPRA's opinion as a result of the non-delivery of other parts of the Performance, all of this without prejudice to the other rights vested in OPRA.

12.4 If a penalty has been agreed for late delivery by the Contractor, that penalty will not affect the Contractor's liability for damages, if any. OPRA will have the right to demand performance of the Agreement in addition to the penalty.

13 Acceptance

13.1 If it is established upon delivery that the Performance is not or not entirely in conformity with the Agreement, OPRA must send the Contractor written notification of rejection as soon as possible and the Performance will not be accepted. The Performance delivered will be accepted if at first sight it is in conformity with the description in the Agreement.

13.2 If the Performance is subject to a final test, trial or inspection, the provisions of Article 9, with the exception of paragraph 7, will apply.

13.3 If and insofar as the Performance must have certain properties that can be established only, for instance, after it has been installed, fitted or built in, paragraph 2 of this Article will be applied as soon as the Performance or the purpose for which the Performance is intended is ready to be installed, fitted or built in.

13.4 If it has been agreed that certificates, assembly instructions, maintenance and operating instructions, drawings or other documents will be supplied together with the Performance, or that training or instruction will be provided, that will form part of the delivery and the Performance will not be deemed to have been accepted until such documents have been supplied or such training or instruction has been provided.

13.5 The Contractor will allow OPRA also to use the Performance before its acceptance.

13.6 Acceptance will not stand in the way of later invocation by OPRA of non-fulfilment by the Contractor of its obligations.

14 Guarantee obligations

14.1 The Contractor guarantees that the Performance will in all respects comply with the provisions of Article 8 and will have the properties that OPRA may expect under the Agreement.

14.2 Without prejudice to the provisions of Article 15, if OPRA, after accepting the Performance, informs the Contractor in writing of any defect in the Performance within the guarantee period specified in the Agreement, the Contractor must replace or repair the Performance as soon as possible, at OPRA's option, in order to remedy the defects for the Contractor's account.

14.3 OPRA will have the right in the event of a defect to return the Performance in question or parts thereof to the Contractor for the latter's account and risk, unless it has been agreed between the parties that the necessary replacement or repair by the Contractor will take place at OPRA.

14.4 If the Contractor fails to fulfil its replacement or repair obligation, OPRA will have the right without any further reminder to perform or commission the replacement or repair for the Contractor's account.

14.5 The agreed guarantee period for a replaced or repaired Performance will recommence the moment OPRA accepts that Performance.

14.6 If the Performance is intended to be used by OPRA in installations and/or systems, the guarantee period will not commence until such installations and/or systems have been put to use.

14.7 If no guarantee period is specified in the Agreement, a guarantee period of two years after acceptance following delivery as referred to in Article 12 will apply.

15 Contractor's liability and indemnification

15.1 The Contractor must fully reimburse all direct and in direct loss (including but not limited to consequential loss, damage to the environment, damage to materials, equipment and other property, personal injuries, and the costs of collection in and out of court) incurred by OPRA or third parties (including persons hired by OPRA or persons entrusted on behalf of the Contractor with the performance of the Agreement) as a result of or in connection with the performance of the Agreement, regardless of whether the loss was caused by the Contractor itself, its staff or other persons whom the Contractor has engaged in the performance of the Agreement.

15.2 The provisions of Article 15.1 will be regarded as having been stipulated also on behalf of injured third parties. The Contractor must hold OPRA harmless against any and all claims that such third parties file against OPRA in respect of the Agreement.

16 OPRA's liability

16.1 Except in the event of intent or gross negligence on the part of OPRA or its executive staff, OPRA will not be liable for any loss incurred by the Contractor, its staff or other persons whom the Contractor has engaged in the performance of the Agreement (including but not limited to destruction and loss of property).

16.2 The provisions of Article 16.1 will serve as a limitation of the liability also in respect of injured staff of the Contractor and other injured persons whom the Contractor has engaged in the performance of the Agreement. The Contractor must hold OPRA harmless against any all claims that such parties involved file against OPRA in respect of the Agreement.

17 Suspension

17.1 OPRA may at any time have the Performance to be provided by the Contractor suspended in full or in part, in the sense that the Contractor will be obligated to postpone the delivery and/or interrupt the work for a period to be determined by OPRA. The Contractor must limit the loss resulting from such suspension to a minimum by taking appropriate measures.

17.2 Measures that the Contractor must take as a result of the suspension will be settled with it as contract variations, to which Article 4.3 applies. The provision of the preceding sentence will not apply if the suspension has been ordered on the grounds of incorrect action on the part of the Contractor.

18 Force Majeure

18.1 If the parties are unable to fulfil their obligations towards each other due to an event of force majeure, those obligations will be suspended for the duration of the event of force majeure.

18.2 Force majeure on the part of the Contractor will in no event include shortage of staff, strikes or sickness of staff, delay in distribution, breach on the part of third parties engaged by the Contractor and/or liquidity problems.

18.3 If the event of force majeure has lasted one month, OPRA has the right to dissolve the Agreement in full or in part by registered letter.

18.4 The Contractor must inform OPRA as soon as possible of an event (or imminent event) of force majeure.

19 Dissolution

19.1 If the Contractor fails to fulfil any obligation arising from it from the Agreement properly or in time, the Contractor will be in default and OPRA will have the right without any notice of default or judicial intervention being required:

- (i) to suspend the performance of the Agreement and any Agreements directly related thereto until Performance has been adequately guaranteed; and/or
- (ii) to dissolve the Agreement and any Agreements directly related thereto in full or in part;

all of this without prejudice to OPRA's other rights on any ground whatsoever and without OPRA being liable for any damages.

19.2 If the Contractor is declared bankrupt or is granted a suspension or provisional suspension of payments, or if its business is stopped or liquidated, OPRA will have the right to dissolve all Agreements with immediate effect, unless the Contractor or its trustee or administrator informs OPRA at its written request within a reasonable period that it will perform the Agreement(s). In that case OPRA may suspend the performance of the Agreement(s) without giving any notice of default, until payment has been sufficiently guaranteed.

19.3 If OPRA suspends the performance of the Agreement(s) as referred to in Article 19.1 and 19.2, (i) all of OPRA's claims against the Contractor under the Agreement(s) in question and (ii) all of OPRA's claims against the Contractor, respectively, will fall due immediately and in full.

19.4 The applicability of Article 6:278 of the Dutch Civil Code is expressly excluded.

20 Exercising by OPRA of its right of suspension, dissolution and/or nullification

20.1 If, on the basis of information available to OPRA at that moment, OPRA reasonably believes that it can lawfully exercise a right of suspension, dissolution or nullification, the Contractor will not be entitled to any form of damages, in any event not to statutory interest, if it is later established that OPRA did not lawfully exercise the aforesaid rights.

21 Transfer of rights and obligations

21.1 Without OPRA's written consent, the Contractor may not transfer any rights and/or obligations under the Agreement or any part thereof.

21.2 The consent referred to in Article 21.1, if given, will not release the Contractor from any obligation under the Agreement; the Contractor will be responsible for the contribution from third parties as if it was its own Performance.

22 Intellectual property rights

22.1 Any and all intellectual property rights and/or similar rights in respect of a Performance developed by the Contractor especially for OPRA shall vest in OPRA or shall be transferred from Contractor to OPRA.

22.2 If the Performance is not developed especially for OPRA, the Contractor will grant OPRA a worldwide non-exclusive, perpetual and nonterminable licence in respect of any and all intellectual property rights and/or similar rights concerning the Performance. The licence fee in question is included in the price of the Performance.

22.3 Insofar as the transfer of intellectual property rights and/or similar rights as referred to in article 22.1 or the granting of a licence as referred to in Article 22.2 requires a special deed or other formalities, the Contractor hereby declares that it shall fully cooperate in such a deed or in such formalities.

22.4 Insofar as a Performance requires a licence from OPRA to certain intellectual property rights and/or similar rights of OPRA, OPRA shall grant a non-exclusive, non-sublicensable, without notice terminable licence to perform the necessary acts for the purpose of the Performance in the place of business of the Contractor.

22.5 The Contractor guarantees that the Performance shall not infringe any intellectual property rights and/or similar rights of third parties. The Contractor will hold OPRA harmless against any and all third-party claims based on infringement (or alleged infringement) of such rights.

23 Confidentiality

23.1 The Contractor shall observe confidentiality in respect of all information and/or data that it obtains in the performance of the Agreement and shall only use such information and/or data for the intended purpose. The Contractor shall not disclose such information and/or data to any third party without OPRA's written consent.

23.2 The Contractor shall either (i) return the information and/or data to OPRA, or (ii) destroy the information and/or data and confirm to OPRA in writing that the information and/or data has been destroyed. It is at OPRA's discretion to decide whether the information and/or data shall be returned, destroyed or partly returned and partly destroyed.

23.3 The Contractor shall impose the obligations towards OPRA, as referred to in the preceding paragraph of this Article, on the parties (including employees of the Contractor) entrusted with the performance of the Agreement on behalf of the Contractor and guarantees towards OPRA that such parties shall fulfil those obligations.

23.4 In the event of violation of the preceding paragraphs of this Article, the Contractor shall forfeit an immediately payable penalty of EUR 50,000 per event, which penalty shall not affect the Contractor's liability for damages, if any. OPRA will have the right to demand performance of the Agreement in addition to the penalty.

24 Personnel and third parties

24.1 If the Contractor wishes to make use in the performance of the Agreement of services of third parties or its own employees, it may do so only with OPRA's prior written consent. OPRA may make its consent subject to certain conditions, including the condition of submission of a certificate of good behaviour within the meaning of the Wet op de justitiële documentatie en op de verklaringen omtrent het gedrag (Judicial Records and Certificates of Good Behaviour Act) (Article 2:2 of the CAR/UWO (Collective Employment Scheme/Detailed Agreement) must be submitted.

24.2 The Contractor will instruct the engaged third parties and/or employees to observe the working hours and rules of conduct that apply at OPRA.

24.3 If the quality of the work or the conduct of an employee of the Contractor and/or a third party engaged by the Contractor is inadequate in OPRA's opinion, stating the reasons, the Contractor will replace the employee or third party at OPRA's first request.

24.4 In the event of temporary or permanent absence of employees or third parties engaged by the Contractor, the Contractor must make replacement employees available as soon as possible whose expertise, training level and experience are at least equivalent to those of the persons originally engaged.

24.5 In the case of the provision of services that are pre-eminently dependent on the skills of the employee or third party engaged, that employee or third party will first be presented to OPRA for its approval.

24.6 The Contractor guarantees towards OPRA that all the obligations described in the Agreement and in these Conditions of Purchase will also be fulfilled by all the persons affiliated with the Contractor, including the Contractor's group companies and employees and third parties engaged by the Contractor (subcontractors) as if they had directly undertaken to do so towards OPRA.

25 Payment of premiums and taxes

25.1 The Contractor guarantees that it will fulfil the statutory obligations concerning the payment of social security premiums and wage tax in respect of the third parties and/or employees engaged by.

25.2 The Contractor will hold OPRA harmless against any and all claims from the administration agencies in question and/or the relevant tax authorities in respect of the premiums and tax payable for the employees and/or third parties in question.

26 Insurance

26.1 The Contractor must take out and maintain adequate insurance for its own account in respect of its liability in the broadest sense (including but not limited to professional liability, product liability, third-party liability (including strict liability and CAR liability) towards OPRA and third parties.

27 Choice of law and competent court

27.1 These Conditions of Purchase and the Agreement are governed by Dutch law.

27.2 The applicability of the 1980 United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention) is excluded.

27.3 Except insofar as otherwise provided by mandatory rules of law, any and all disputes between the parties will be submitted to the competent court of Amsterdam, the Netherlands, on the understanding that OPRA will have the right to submit claims against the Contractor, whether or not simultaneously, to other judicial bodies that are competent to hear and decide on such claims pursuant to national or international rules of law.

These General Conditions have been filed at the Kamer van Koophandel Oost Nederland [Chamber of Commerce] on 23 January 2014 in Enschede under number 06066590