



TENNET GENERAL TERMS AND CONDITIONS OF PURCHASE 2018

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GENERAL SECTION

ARTICLE 1. DEFINITIONS

Unless determined otherwise by the context, capitalized words and expressions in these General Terms and Conditions of Purchase shall have the following definitions:

Acceptance: approval by TenneT in writing of the (partly) delivery of Services and/or Goods.

Agreement: arrangements agreed in writing between TenneT and the Opposite Party concerning (the delivery of) Goods and/or Services.

General Terms and Conditions: the present TenneT General Terms and Conditions of Purchase.

Goods: articles and property rights, including software.

Opposite Party: the party with which TenneT enters into an Agreement.

Services: the activities to be performed by the Opposite Party for TenneT under the Agreement and for a fee, and not under a contract of employment.

TenneT: TenneT Holding B.V., having its registered office in Arnhem, The Netherlands, and all legal entities and companies associated with TenneT in a group within the meaning of article 2:24b of the Netherlands Civil Code.

ARTICLE 2. APPLICABILITY

2.1 These General Terms and Conditions shall apply to any request made by TenneT to the Opposite Party to submit an offer, to the offer to be submitted by the Opposite Party, to all orders by TenneT and to all Agreements concluded and to be concluded with the Opposite Party under which TenneT acts as the purchaser or potential purchaser of Goods and/or the client or potential client of Services, as well as to all legal

relationships arising from such Agreements.

- 2.2 Deviations from and/or additions to these General Terms and Conditions shall only be valid if agreed between parties in writing. Notifications, including commitments or (further) arrangement(s), sent by one party to the other that are relevant to the execution of the Agreement shall be binding for parties only if confirmed in writing by a duly authorized person.
- 2.3 The applicability of any general terms and conditions used by the Opposite Party, regardless of their designation, is hereby expressly rejected.
- 2.4 The original Dutch text of these General Terms and Conditions shall prevail over any translation thereof.

ARTICLE 3. CORPORATE SOCIAL RESPONSIBILITY

- 3.1 The Opposite Party hereby declares that it has drawn up its offer with due consideration of its obligations under EU environmental, social and labour law, in accordance with article 2.81 of the Dutch Public Procurement Act 2012 (*Aanbestedingswet*). The Opposite Party shall act in accordance with the prevailing TenneT Supplier Code of Conduct, which may be accessed at https://www.tennet.eu/fileadmin/user_upload/Company/Procurement/TenneT_Supplier_Code_of_Conduct.pdf.

ARTICLE 4. ESTABLISHMENT OF AN AGREEMENT

- 4.1 Unless the Opposite Party has explicitly stated otherwise in writing, an offer made by the Opposite Party to TenneT shall be irrevocable.

- 4.2 An Agreement shall not be established until such time as TenneT has accepted the offer of the Opposite Party in writing.
- 4.3. The Opposite Party shall act at its own expense and risk if and to the extent that it starts carrying out its offer before TenneT has accepted it in writing and, consequently, no Agreement has been established.
- 4.4 Acceptance by TenneT that differs from the offer made by the Opposite Party shall be regarded as an offer made by TenneT. In such case, the Agreement shall be established in accordance with the offer made by TenneT, provided that TenneT receives written Acceptance from the Opposite Party within ten working days after submitting the offer, or, as the case may be, the Opposite Party has started carrying out the Agreement within ten working days after submitting the offer.
- 4.5 As security for the proper and timely fulfilment by the Opposite Party of all its obligations arising from the Agreement, TenneT may require the Opposite Party to furnish security by means of an unconditional and irrevocable bank guarantee issued by a bank acceptable to TenneT.

ARTICLE 5. PRICES / PAYMENT CONDITIONS

- 5.1 Unless otherwise agreed in writing by parties on establishment of the Agreement, all prices and tariffs shall be in euros and shall be fixed for the term of the Agreement.
- 5.2 Unless agreed otherwise in writing, prices shall include all costs in connection with the fulfilment of the obligations of the Opposite Party, including but not confined to the costs of packing, transport and insurance, and as the case may be any costs incurred for exchanging or converting foreign currency. All prices shall be exclusive of value-added tax, but inclusive of any other taxes and duties, including but not confined to environmental levies and import and export duties.
- 5.3 Services shall be performed for the final net total price stated in the Agreement. Notwithstanding this provision, parties may agree in the Agreement that all or some of the work shall be carried out for hourly rates or other unit charges specified in the Agreement. Unless agreed otherwise in writing, such rates or charges shall include any travel and subsistence expenses and travelling time.
- 5.4 If parties have agreed that payment shall take place entirely or partly on the basis of rates, the Opposite Party shall keep records of the rates payable, showing the components that make up the total amount payable by TenneT. The Opposite Party shall submit a copy of such records within 14 working days after the end of each calendar month.
- 5.5 Invoicing by the Opposite Party shall take place as described in the Agreement. Each invoice shall in any event specify the TenneT order number as well as the relevant item number(s), volume(s) and description(s). In addition, the invoice shall meet all applicable legal requirements, including but not confined to specification of the VAT number of the Opposite Party.
- 5.6 The Opposite Party shall submit its invoice electronically to enable its electronic receipt and processing in accordance with the specifications established by TenneT.
- 5.7 Payment of net invoiced amounts shall be made within 30 calendar days of receipt of an invoice, provided that the following conditions have been met:

- i. TenneT has accepted the Goods and/or Services in accordance with the provisions of article 10.
- ii. TenneT has received all relevant documentation drawn up by the Opposite Party.

Payment by TenneT shall in no way constitute a waiver of any rights. Payments made prior to Acceptance shall take place, at all times, under the condition precedent of Acceptance.

- 5.8 TenneT shall have the right to offset amounts it is owed by the Opposite Party at any time against amounts that TenneT owes the Opposite Party.

ARTICLE 6. AMENDMENT TO THE AGREEMENT

- 6.1 TenneT shall have the right to amend the contents of the Agreement. TenneT shall have the right to make modifications or changes to drawings, models, instructions, specifications and similar items related to the Agreement. TenneT shall inform the Opposite Party of such changes in writing as soon as possible.
- 6.2 The Opposite Party shall carry out all amendments required by TenneT (including amendments to the time schedule), provided that they are technically and organisationally feasible. If the Opposite Party is of the opinion that a required amendment will have consequences for the agreed price and/or time of delivery, it shall inform TenneT accordingly in writing as soon as possible before carrying out the amendment.
- 6.3 Parties shall agree the consequences of amendments beforehand in writing, and shall invoice them separately. If TenneT is of the opinion that the consequences for the price and/or time of delivery are unreasonable in relation to the nature and scale of the amendment, or if parties

fail to reach agreement on the consequences of amendments, TenneT shall have the right to dissolve the Agreement by means of written notification to the Opposite Party, unless the consequences of the amendment do not justify dissolution. In the event that TenneT proceeds to dissolve the Agreement in accordance with the provisions of article 13.2, TenneT shall not be bound to compensate any damages incurred by the Opposite Party as a result of the dissolution.

- 6.4 Without TenneT's prior written permission, the Opposite Party shall not be entitled to replace, either temporarily or permanently, individuals originally tasked with the execution of the Agreement, unless agreed otherwise in writing. TenneT shall not withhold its permission on unreasonable grounds and shall be entitled to attach further conditions to its permission. Any changes will not impact the rates agreed on for the originally designated individuals.

If TenneT wants other individuals to execute the Agreement because it considers this important for the proper execution of the Agreement, TenneT will inform the Opposite Party of this in writing, stating its reasons. The Opposite Party shall arrange for the replacement of the individuals in question as quickly as possible. In that event, the rates agreed upon shall remain unchanged.

In the event of a possible replacement of the individuals referred to in this article, their replacements shall possess at least equivalent qualifications in terms of expertise, training and experience.

ARTICLE 7. OBLIGATIONS OF THE OPPOSITE PARTY

- 7.1 The Opposite Party shall be expected to possess full knowledge of and all skills necessary for the nature of the Goods

and/or Services to be delivered, the scale of all activities associated with execution of the Agreement, and the applicable contractual terms and conditions.

- 7.2 The Opposite Party warrants that it possesses all qualifications necessary to execute the Agreement independently and under its own responsibility.
- 7.3 The Opposite Party shall be expected to be aware of all applicable regulations and recommendations issued by competent national and international authorities and the applicable codes of conduct.
- 7.4 The Opposite Party shall possess all required licences and/or authorizations at all times during the execution of the Agreement.
- 7.5 The Opposite Party shall make delivery of Goods and/or Services in accordance with a standard of quality that is at least equal to the standard customary in its industry. The Opposite Party warrants that the delivery of Goods and/or Services shall satisfy the requirements that TenneT may expect for such deliveries.
- 7.6 The Opposite Party represents and warrants that, in respect of the Agreement, neither (the company of) the Opposite Party, nor one or more of its managers, representatives, subordinates and/or non-subordinates, or legal entities affiliated with the Opposite Party and their managers, representatives, subordinates or advisors is/are or has/have been involved in consultations or agreements with other prospective suppliers concerning price formation and/or the manner of submitting offers/tenders and/or division of work and/or offering or providing money or monetizable immaterial advantages to one or more TenneT employees who are directly or indirectly involved in or able to exert any degree of influence on the decision to award the contract or

conclude the Agreement, in a manner that could violate the applicable legal provisions.

- 7.7 The Opposite Party also represents and warrants that neither the Opposite Party nor any of its subordinates and/or non-subordinates has promised, offered or provided or will promise, offer or provide any advantage in any form whatsoever to TenneT's executives, subordinates and/or non-subordinates.
- 7.8 The Opposite Party represents and warrants that all taxes and/or social security contributions in respect of subordinates and/or non-subordinates engaged by the Opposite Party have been paid, and that it shall indemnify TenneT from any claims in connection with such payments.

ARTICLE 8. SAFETY

- 8.1 TenneT considers the achievement of its safety objectives as defined in its Safety Vision 2018 ('zero harm') to be a shared responsibility of TenneT and all of its contractors, including the Opposite Party, and the Opposite Party undertakes to adopt a proactive attitude in this area, also in cases for which TenneT has not laid down any specific requirements or conditions or has not raised any issues, in accordance with TenneT's safety motto 'Stay tuned. Safety first!'

TenneT and the Opposite Party shall endeavour to:

- a. pursue continuous improvement in the area of health and safety, with the ultimate goal of reducing to zero the number of incidents involving employees of TenneT and the Opposite Party - including its auxiliaries - and other third parties
- b. pursue continuous reduction of the environmental impact of the activities that are being performed



- within the scope of the execution of the Agreement and the ultimate result thereof, with the ultimate goal of reducing to zero any emissions of toxic and harmful substances
- c. shall design and execute the Agreement (or instruct third parties to design and deliver Goods and/or Services) in such a manner that the environment as well as the health and safety of employees of TenneT and the Opposite Party, including its independent auxiliaries, and other third parties are protected during construction, operation, maintenance, and dismantling.

ARTICLE 9. FULFILMENT / DELIVERY

- 9.1 Delivery or fulfilment of obligations under the Agreement shall take place at the agreed place and at the agreed time or respectively within the agreed term. Unless otherwise agreed in writing, all terms stated by TenneT shall be regarded as deadlines. The Opposite Party shall be in default by operation of law if it fails to meet a deadline. Failure by a party to require compliance with any provision of the Agreement within the term specified in the Agreement shall not affect that party's right to require compliance with that provision at a later time, unless the party concerned has consented to the non-compliance explicitly and in writing. For the purposes of these conditions, delivery shall include partial deliveries.
- 9.2 In the event of an impending delay in the fulfilment of the obligations of the Opposite Party under the Agreement, the Opposite Party shall immediately notify TenneT of this in writing, stating the cause and possible impact of the delay, as well as how much time the Opposite Party believes it will need to fulfil its obligations under the Agreement. The

Opposite Party shall also propose reasonable measures to remedy such delay and prevent future delays.

- 9.3 Following receipt of the notification as referred to in article 9(2), TenneT shall inform the Opposite Party in writing within 14 calendar days of its approval or rejection of the measures proposed by the Opposite Party, the possible consequences thereof, and the specified deadline for fulfilment. Approval of the proposed measures shall not be taken to mean that TenneT recognizes the cause of the impending delay, and shall leave intact all of TenneT's other rights or claims under the Agreement. If TenneT does not consent to the proposed measures, TenneT shall have the right to dissolve the Agreement without further notice of default and without being liable to compensate any damages incurred by the Opposite Party.
- 9.4 TenneT shall have the right to alter the agreed place of delivery and to postpone the agreed time of delivery. TenneT shall notify the Opposite Party of this in writing not later than five working days prior to delivery.

ARTICLE 10. ACCEPTANCE

- 10.1 Delivery shall not constitute Acceptance.
- 10.2 Within a reasonable time after delivery, TenneT shall (commission) inspect(ion) (of) the Goods and/or Services, including checks and/or tests. Inspection shall not constitute Acceptance, and shall not relieve the Opposite Party of its obligations under the Agreement. Unless otherwise agreed, the Opposite Party shall pay the costs of the inspection, except for the costs associated with the performance of such inspections by employees of TenneT or its authorized representatives.
- 10.3 Based on such an inspection, TenneT may:

- a) approve the Goods and/or Services; or
 - b) provisionally approve the Goods and/or Services, with the proviso that the Opposite Party shall resolve any remaining issues within a period to be determined by TenneT; or
 - c) reject the Goods and/or Services.
- 10.4 In case of rejection, TenneT may order the Opposite Party to fulfil the Agreement in accordance with the agreed requirements within a reasonable period of time to be determined by TenneT, during which period TenneT shall have the right to issue instructions. The provisions of this article shall then apply *mutatis mutandis*. All costs of any re-inspection shall be payable by the Opposite Party. If the delivered Goods and/or Services are rejected a second time following a re-inspection, TenneT shall have the right to terminate the Agreement and to commission a third party to perform the (remaining) work at the Opposite Party's expense.
- 10.5 Rejection shall not imply any postponement of the agreed time of delivery, unless TenneT has agreed to an extension in writing.
- 10.6 Acceptance shall not occur before such time as TenneT has accepted the Goods and/or Services in writing, or, as the case may be, until the remaining issues that are the subject of provisional Acceptance have been resolved, as confirmed in writing by TenneT.
- 10.7 In the case of partial deliveries, TenneT shall perform only provisional inspections, and Acceptance shall not occur until the Agreement has been fully executed, provided always that the other conditions for Acceptance have been fulfilled.
- 10.8 Without prejudice to the provisions of this article, TenneT shall have the right to perform inspections and progress checks

during execution of the Agreement. TenneT shall arrange such inspections and progress checks in such a way that any disruption of the progress of the work is minimized. The Opposite Party shall provide the cooperation required for inspections and progress checks.

- 10.9 TenneT shall have the right to start using Goods and/or Services before Acceptance, insofar as TenneT considers this desirable and/or necessary.
- 10.10 Acceptance shall not relieve the Opposite Party of its liability for any visible or invisible deficiencies, regardless of whether or not TenneT has conducted an inspection.

ARTICLE 11. WARRANTIES

- 11.1 The Opposite Party guarantees that the delivered Goods and/or Services shall be in conformity with the Agreement and shall possess the agreed characteristics, shall be free of defects, shall be suitable for the purpose for which they are intended, and shall satisfy the legal requirements and other applicable national and international regulations, in each instance as prevailing at the time of delivery.
- 11.2 Provided that the Agreement or applicable laws and/or regulations do not stipulate otherwise, the Opposite Party shall provide a full warranty on the Goods and/or Services for a period of 24 months after Acceptance.
- 11.3 The Opposite Party shall repair defects and/or imperfections during the warranty period within a reasonable term to be determined by TenneT. All costs incurred as a result of such activities shall be payable by the Opposite Party. Fulfilment of warranty obligations shall leave intact the provisions concerning liability.
- 11.4 If necessitated by the required speed of repair, TenneT shall have the right, after

consulting with the Opposite Party, to perform or commission the performance of repairs at the expense of the Opposite Party. In very urgent circumstances, TenneT may refrain from prior consultation, in which case TenneT shall notify the Opposite Party as soon as possible after completion of the repairs.

11.5 If TenneT considers such necessary, it may require the complete replacement of Goods and/or Services and/or of parts thereof designated by TenneT. TenneT shall make such a request to the Opposite Party in writing. The Opposite Party shall then carry out the replacement.

11.6 The warranty and warranty period shall recommence after Acceptance by TenneT of the repairs performed, provided they are covered by the warranty conditions.

ARTICLE 12. LIABILITY / INSURANCE

12.1 Unless explicitly stipulated otherwise in the Agreement, the Opposite Party shall be liable for any damages incurred by TenneT in the event that the Opposite Party has failed to comply with its obligations under the Agreement, with the proviso that the liability per event shall be limited to an amount of:

- For contracts with a total value less than or equal to €50,000: €150,000 per event and €300,000 per contract year or part thereof during which the Agreement is in effect
- For contracts with a total value greater than €50,000 but less than or equal to €100,000: €300,000 per event and €500,000 per contract year or part thereof during which the Agreement is in effect
- For contracts with a total value greater than €100,000 but less than or equal to €150,000: €500,000 per

event and €1,000,000 per contract year or part thereof during which the Agreement is in effect

- For contracts with a total value greater than €150,000 but less than or equal to €500,000: €1,500,000 per event and €3,000,000 per contract year or part thereof during which the Agreement is in effect
- For contracts with a total value greater than €500,000: €3,000,000 per event and €5,000,000 per contract year or part thereof during which the Agreement is in effect

Related events are treated as a single event.

The limitation of liability as referred to above shall lapse in the event of a deliberate act and/or gross negligence and/or deliberate recklessness on the part of the Opposite Party and/or its subordinates and/or non-subordinates.

- 12.2 The Opposite Party shall not be liable for damage resulting from interruptions in or limitations imposed on the transmission of electricity.
- 12.3 The Opposite Party shall indemnify TenneT against third-party claims for any form of compensation for damages. Third parties shall include employees of TenneT and persons working on the instructions of TenneT.
- 12.4 Compliance with the TenneT regulations concerning occupational health and safety and environmental protection and any other guidelines applied by TenneT shall not relieve the Opposite Party of its liability for damage occurring in connection with the execution of the Agreement.
- 12.5 The Opposite Party shall take out adequate product and/or professional and/or business liability insurance policies with reputable insurance companies, and shall maintain such

insurance during the entire term of the Agreement. The Opposite Party shall obtain sufficient insurance cover against liability within the meaning of this article. At the request of TenneT, the Opposite Party shall submit for inspection the relevant policy or policies or a statement issued by the insurer. Additionally, TenneT may require proof of full payment or a statement from the insurer that evidences payment of the premiums due for the current insurance policy or policies.

- 12.6 If several cooperating Opposite Parties have concluded an Agreement with TenneT, they shall be severally liable to TenneT for fulfilment of their obligations under that Agreement.

ARTICLE 13. TERMINATION

13.1 Any non-fulfilment of the obligations of the Opposite Party under the Agreement shall give TenneT the right to:

- a) (commission the) remedy of the consequences of the non-fulfilment at the expense and risk of the Opposite Party;
- b) execute the Agreement itself or commission a third party to execute all or part of the Agreement at the expense and risk of the Opposite Party;
- c) suspend its obligations under the Agreement;
- d) claim full compensation,

in each instance at the discretion of TenneT, without prejudice to TenneT's other rights in connection with the non-fulfilment and without TenneT being liable to the Opposite Party for payment of any form of compensation.

- 13.2 Without prejudice to its other rights, TenneT shall have the right to dissolve the Agreement in the interim, with immediate effect, in full or in part, through

written notification of the Opposite Party, if:

- a) the Opposite Party is in default with regard to its obligations;
- b) a significant part or a substantial part of the assets of the Opposite Party are seized and such seizure is not lifted or reversed within 30 calendar days of the date thereof;
- c) an application has been filed for suspension of payments or debt remission, an application has been filed for bankruptcy, creditors have been offered a private settlement, the Opposite Party has been declared bankrupt in an irrevocable judgment or has been granted suspension of payments, or a request for debt remission has been granted;
- d) the Opposite Party discontinues all or some of its activities or transfers its activities to a third party, or if any change occurs in majority control of the Opposite Party and/or if licences and/or authorizations required for its activities are cancelled.

13.3 Any and all debts that the Opposite Party owes or may owe TenneT on dissolution of the Agreement shall become payable immediately and in full.

13.4 If and insofar as the Opposite Party's obligations under the Agreement include the delivery of printed or digital information and/or data carriers containing the Opposite Party's deliverables, the Opposite Party shall in the event of any form of, and immediately following the entry into effect of, dissolution or termination of the Agreement by TenneT, transfer to TenneT the title to all documents, data and/or records created up to that point under the Agreement, and shall do so in

an appropriate manner and in a format that can be processed by TenneT.

ARTICLE 14. FORCE MAJEURE

- 14.1 In the event of a non-imputable failure to fulfil the obligations under the Agreement within the meaning of article 6:75 of the Netherlands Civil Code (hereafter referred to as “Force Majeure”), parties shall inform each other accordingly without delay and shall state the expected duration. Fulfilment of the obligations of parties shall be suspended for the duration of the Force Majeure situation, unless this situation lasts longer than 20 working days or the nature of the Agreement precludes such suspension. In both cases, each party shall have the right to dissolve the Agreement without being liable to payment of any form of compensation.
- 14.2 Force Majeure shall in any case not be taken to mean: staff shortages, strikes, failure of auxiliary materials, liquidity and/or solvency problems on the part of the Opposite Party, transport problems, non-fulfilment of obligations by suppliers, disruption of the Opposite Party’s production, or any failure on the part of third parties engaged by the Opposite Party. The aforementioned circumstances shall therefore be at the expense and risk of the Opposite Party.

ARTICLE 15. CONFIDENTIALITY

- 15.1 Parties shall maintain strict confidentiality vis-à-vis third parties regarding all data and company information belonging to parties that they must reasonably be expected to understand to be confidential, and also regarding all data designated as confidential by parties that come to the parties’ knowledge during the execution of the Agreement. This duty of confidentiality shall not apply to information publicly disclosed or to be

disclosed by one of the parties – other than through a violation of the provisions of this article 15 – or to information that must be made public by virtue of any obligation stipulated by or pursuant to applicable legislation.

- 15.2 Unless TenneT has given its prior written permission, the Opposite Party shall not refer to an Agreement or possible Agreement in publications or advertisements in magazines, newspapers, reports, business letters, brochures, radio or television programmes, on the Internet, or in any other medium.
- 15.3 The Opposite Party shall also impose the confidentiality obligation as defined in this article on all its subordinates or employees and on any non-subordinates/third party(ies) that it engages and who are provided with access to information as referred to in article 15.1 for the purposes of executing the Agreement, and shall guarantee compliance from them with those obligations. TenneT shall have the right to require that persons who are or will be engaged by the Opposite Party in the execution of the Agreement sign a confidentiality statement in accordance with a model provided by TenneT.
- 15.4 TenneT may include a provision in the Agreement stipulating that a fine shall be imposed in the event of violation of the aforementioned confidentiality obligation. Payment of this immediately payable fine shall leave intact the Opposite Party’s obligation to provide compensation for any damages resulting from the violation.
- 15.5 The confidentiality obligation shall remain in force after the Agreement ends or is terminated for any reason whatsoever, unless stipulated otherwise in the Agreement.

ARTICLE 16. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS / SOURCE CODE

16.1 Unless agreed otherwise in writing, TenneT shall retain ownership of all data and documents that TenneT makes available to the Opposite Party for the purpose of executing the Agreement, insofar as TenneT owns such data and documents or holds intellectual and/or industrial property rights to them. The Opposite Party shall respect the rights of TenneT in this regard. On expiry of the Agreement, the Opposite Party shall return without delay all data and documents belonging to TenneT, or shall have them destroyed at TenneT's written request.

16.2 If and to the extent that the Opposite Party or a third party can enforce intellectual and/or industrial property rights attached to delivered Goods, the Opposite Party shall grant TenneT the right to use the delivered Goods for an unlimited period of time and on an unrestricted scale. This right of use shall include the right of TenneT to grant third parties and/or its customers a right to use the Goods.

16.3 Unless otherwise agreed, TenneT shall hold all copyrights that may be exercised – at any time and in any place – with respect to the results of the Services to be delivered.

Intellectual property rights shall be understood to include rights of publicity (personality rights) within the meaning of article 25(1) of the Dutch Copyright Act (*Auteurswet*).

As far as necessary, the Opposite Party hereby waives all its personality rights as referred to in article 25(1), items (a) through (c), of the Dutch Copyright Act, to the extent that the Act permits such waiver of rights.

16.4 Unless otherwise agreed, TenneT shall hold all intellectual property rights that may be exercised – at any time and in any place – with respect to the results of the Services to be delivered. The Opposite Party shall transfer to TenneT any and all intellectual property rights under the Agreement at the moment when they arise, and TenneT hereby accepts this transfer at this time for such future time when it may occur. TenneT shall further acquire the most comprehensive rights possible to use inventions applied or developed by the Opposite Party in the context of execution of the Agreement. Unless agreed otherwise in writing, TenneT shall not owe the Opposite Party any separate fees for such rights.

16.5 The Opposite Party guarantees the unrestricted and undisturbed use by TenneT of the delivered Goods and of any inventions applied and/or developed by the Opposite Party in the context of execution of the Agreement. The Opposite Party guarantees that it shall not infringe any third-party industrial or intellectual property rights in the execution of the Agreement. The Opposite Party shall indemnify and hold harmless TenneT against claims by third parties for compensation for damage due to infringement of their industrial and intellectual property rights.

16.6 In the event of any violation as referred to in clause 5 of this article, the Opposite Party shall be required to obtain a right of use for TenneT or, if this is not possible, to replace the delivered Goods with equivalent Goods which do not violate third-party intellectual and/or industrial property rights, or to modify the Goods so that they no longer violate such rights, in each instance in consultation with TenneT and on condition that the Goods continue to comply with the relevant provisions in the Agreement and are

suitable for the purpose for which they are intended.

- 16.7 If the Agreement provides for the development of software, or if the delivery of Goods includes the provision of software, the Opposite Party shall at the request of TenneT deposit the software source code with an independent third party on conditions to be agreed, so as to allow TenneT access to the source code in the event of bankruptcy of the Opposite Party, or if for any other reason the Opposite Party is no longer able or willing to maintain or supply the software.

ARTICLE 17. ASSIGNMENT OF CONTRACT

- 17.1 Without the prior written permission of TenneT, the Opposite Party shall not assign or subcontract to third parties, either in part or in full, any rights or obligations arising from the Agreement. TenneT shall have the right to attach conditions to such permission.

ARTICLE 18. ENGAGING THIRD PARTIES

- 18.1 If and to the extent that the Agreement is carried out entirely or partly by one or more third parties with the permission of TenneT, the Opposite Party shall remain severally liable to TenneT for the fulfilment of obligations under the Agreement. The Opposite Party shall indemnify and hold harmless TenneT against any claims for compensation of damage incurred by third parties engaged by the Opposite Party.

ARTICLE 19. INVALIDITY / NULLITY

- 19.1 If any provision of these General Terms and Conditions is invalid, null and void or annulable, this shall not impair the validity of the other provisions. Any such provision shall be replaced by a provision

which is as similar as possible to the purpose and intent of the original provision.

ARTICLE 20. PROCESSING OF PERSONAL DATA

- 20.1 Insofar as the Opposite Party processes personal data for TenneT for the purposes of executing the Agreement, the Opposite Party is regarded as a Processor within the meaning of the General Data Protection Regulation (GDPR) and the Dutch General Data Protection Regulation Implementation Act (*Uitvoeringswet Algemene Verordening Gegevensbescherming*). The Opposite Party shall not be entitled to (commission) use, either in part or in full, the personal data provided to it, in any way for any purpose other than for the execution of the Agreement, except if required by law.
- 20.2 TenneT shall have the right to obligate the Opposite Party to conclude a Data Processing Agreement in accordance with a model provided by TenneT for that purpose. If TenneT does not consider this necessary, the provisions of article 20 of the General Terms and Conditions shall apply to the delivery of Goods and Services by the Opposite Party, in conformity with the arrangements set out in articles 24 and 28 of the GDPR.
- 20.3 The Opposite Party shall execute appropriate technical and organizational measures as referred to in article 20.1 of the General Terms and Conditions to secure personal data, as defined in article 4 of the GDPR, against loss or any form of unlawful processing. Taking account of the state of the art and the execution costs, these measures shall ensure an appropriate level of security with a view to the risks associated with processing and the nature of the

personal data to be protected. The measures are partly aimed at preventing unnecessary collection and further processing of personal data. The Opposite Party shall record the measures in writing.

- 20.4 The Opposite Party shall process personal data as defined in article 4 of the GDPR in a proper and careful manner in conformity with the applicable laws and regulations as well as any applicable TenneT Code of Conduct. The above provisions shall also apply in full to cross-border transfer and/or distribution and/or supply of personal data to countries outside the EU.
- 20.5 The Opposite Party shall fully cooperate with TenneT in securing the following rights of data subjects within the meaning of articles 15, 16, 17, 18 and 19 of the GDPR (i) providing access to their personal data; (ii) deletion or correction of personal data; and/or (iii) providing proof that personal data have been deleted or corrected if they are incorrect, or – if TenneT disputes the position of the data subject concerned – registering that the data subject considers his/her personal data to be incorrect.
- 20.6 TenneT shall at all times be entitled (to commission a third party) to check if personal data are processed in accordance with the requirements of the GDPR and other applicable laws and regulations. The Opposite Party shall be obligated to grant access to TenneT or to one or more third party(ies) engaged by TenneT, and to fully cooperate in actually performing such checks. The Opposite Party shall also be obligated to provide TenneT with all information necessary to verify compliance with the obligations imposed by the GDPR.

ARTICLE 21. GOVERNING LAW / DISPUTES

- 21.1 The Agreement and all its associated obligations shall be exclusively governed by Dutch law. The applicability of the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) (Vienna Convention) is hereby excluded.
- 21.2 All disputes arising from the Agreement or from associated obligations between parties, as well as disputes arising in connection with these General Terms and Conditions, shall be referred exclusively to the competent court in Arnhem, The Netherlands, unless parties agree otherwise in writing.
- 21.3 Under no circumstances whatsoever shall a dispute between parties constitute a ground for the Opposite Party to suspend fulfilment of its obligations under the Agreement.

ARTICLE 22. VOID OR NULLIFIED PROVISIONS

- 22.1 If and insofar as any provision in these General Terms and Conditions cannot be invoked on the basis of reasonableness and fairness or its unreasonably burdensome nature, this provision shall be interpreted in such a way that its content and purport corresponds to the original provision as closely as possible, to an extent that enables its invocation. The nullity of any provision shall not lead to nullity of the entire Agreement and/or the General Terms and Conditions.

ARTICLE 23. SURVIVING PROVISIONS

- 23.1 Provisions that are by their nature intended to survive termination of the Agreement, shall so survive termination. These provisions shall include in any case:

- Warranties (article 11);
- Liability/ Insurance (article 12);
- Confidentiality (article 15);
- Intellectual and industrial property rights / Source code (article 16);
- Governing law / Disputes (article 21).

SUPPLEMENTARY PROVISIONS FOR DELIVERY OF GOODS

ARTICLE 24. CONDITIONS OF DELIVERY

- 24.1 Goods shall be Delivered Duty Paid (DDP), at the agreed place and at the agreed time and/or within the agreed term. Delivery shall be subject to the prevailing International Commercial Terms (Incoterms) issued by the International Chamber of Commerce in Paris.
- 24.2 Unless agreed otherwise in writing, the Opposite Party may offer the Goods only on working days between 08:00 hrs and 16:00 hrs at the agreed place of delivery. The provisions of article 9 of the General Terms and Conditions shall apply in full.
- 24.3 Unless the Agreement stipulates otherwise, TenneT shall have the right to refuse delivery in partial deliveries or delivery before the agreed time. In such circumstances TenneT shall have the right to return the Goods without prior notice at the expense and risk of the Opposite Party.

ARTICLE 25. PACKING / DISPATCH

- 25.1 Goods shall be packed in such a way as to ensure that they reach their destination in good condition and are suitable for storage. All costs associated with packing the Goods shall be for the account of the Opposite Party. The Opposite Party shall be liable for damage

attributable to inadequate packing of Goods.

- 25.2 The Opposite Party shall comply with any special requirements that TenneT has defined in respect of packing. The Opposite Party shall avoid as much as possible the use of superfluous or unnecessary packaging that harms the environment. In all other respects, the Opposite Party shall comply with all legal requirements concerning packing.
- 25.3 When packing and dispatching, the Opposite Party shall provide the Goods with a legible packing list and/or copy of the invoice that states at least the name and address of the Opposite Party, as well as the name of TenneT and the number/reference of the Agreement with TenneT.
- 25.4 If TenneT has requested the Opposite Party in writing to postpone delivery, the Opposite Party shall store, secure and insure the Goods for TenneT, in a properly packed, separately stored and recognisable condition. TenneT shall reimburse the Opposite Party for reasonable costs incurred for this purpose.
- 25.5 All packaging, with the exception of loaned packaging, shall become the property of TenneT at the time of delivery of the Goods, unless parties have agreed otherwise in writing, in which case the final sentence of the next clause shall apply *mutatis mutandis*.
- 25.6 Loaned packaging shall be clearly marked as such. TenneT shall send back loaned packaging at the expense and risk of the Opposite Party to the address stated by the Opposite Party.

ARTICLE 26. TRANSFER OF OWNERSHIP AND RISK

- 26.1 The risk attached to the Goods shall be transferred after delivery and Acceptance



of the Goods in accordance with the provisions of these General Terms and Conditions.

- 26.2 Ownership of the Goods shall transfer to TenneT upon delivery in accordance with these General Terms and Conditions. TenneT shall have the right to stipulate that it acquires ownership of the Goods at an earlier time. In such case, the Opposite Party shall clearly mark the Goods as being the property of TenneT and shall indemnify and hold harmless TenneT against loss, damage and exercise of third-party rights.

ARTICLE 27. AVAILABILITY OF MAINTENANCE SERVICES AND SPARE PARTS

- 27.1 If the Agreement stipulates that the Opposite Party has an obligation to perform maintenance work and/or to supply spare parts, the Opposite Party guarantees that maintenance services and spare parts necessary for the repair and maintenance of the Goods shall remain available at reasonable prices and/or rates for a period of ten years after the final delivery of the Goods concerned to TenneT, unless the Agreement stipulates a different term.